

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1398**

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**Introduced by Assembly Member Arambula**

February 23, 2007

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An act to amend Sections 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, 23634, and 23646 of, and to add Sections 17053.76 and 23622.9 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1398, as amended, Arambula. Targeted economic development areas: tax credits.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRAs, subject to specified criteria. The qualified taxpayer is required to obtain a certification from specified entities regarding the eligibility of the qualified employee.

This bill would, for taxable years beginning on or after January 1, 2008, suspend the operation of those separate provisions that authorize these credits under both of those laws and would, instead, authorize one hiring credit under those respective laws for qualified taxpayers who hire qualified employees, as defined, within a geographically targeted economic development area, as defined.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 17053.34 of the Revenue and Taxation Code is amended to read:

17053.34. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the “net tax” (as defined in Section 17039) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) “Qualified wages” means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

1 (2) “Minimum wage” means the wage established by the  
2 Industrial Welfare Commission as provided for in Chapter 1  
3 (commencing with Section 1171) of Part 4 of Division 2 of the  
4 Labor Code.

5 (3) “Targeted tax area expiration date” means the date the  
6 targeted tax area designation expires, is revoked, is no longer  
7 binding, or becomes inoperative.

8 (4) (A) “Qualified employee” means an individual who meets  
9 all of the following requirements:

10 (i) At least 90 percent of his or her services for the qualified  
11 taxpayer during the taxable year are directly related to the conduct  
12 of the qualified taxpayer’s trade or business located in a targeted  
13 tax area.

14 (ii) Performs at least 50 percent of his or her services for the  
15 qualified taxpayer during the taxable year in a targeted tax area.

16 (iii) Is hired by the qualified taxpayer after the date of original  
17 designation of the area in which services were performed as a  
18 targeted tax area.

19 (iv) Is any of the following:

20 (I) Immediately preceding the qualified employee’s  
21 commencement of employment with the qualified taxpayer, was  
22 a person eligible for services under the federal Job Training  
23 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,  
24 who is receiving, or is eligible to receive, subsidized employment,  
25 training, or services funded by the federal Job Training Partnership  
26 Act, or its successor.

27 (II) Immediately preceding the qualified employee’s  
28 commencement of employment with the qualified taxpayer, was  
29 a person eligible to be a voluntary or mandatory registrant under  
30 the Greater Avenues for Independence Act of 1985 (GAIN)  
31 provided for pursuant to Article 3.2 (commencing with Section  
32 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and  
33 Institutions Code, or its successor.

34 (III) Immediately preceding the qualified employee’s  
35 commencement of employment with the qualified taxpayer, was  
36 an economically disadvantaged individual 14 years of age or older.

37 (IV) Immediately preceding the qualified employee’s  
38 commencement of employment with the qualified taxpayer, was  
39 a dislocated worker who meets any of the following:

1 (aa) Has been terminated or laid off or who has received a notice  
2 of termination or layoff from employment, is eligible for or has  
3 exhausted entitlement to unemployment insurance benefits, and  
4 is unlikely to return to his or her previous industry or occupation.

5 (bb) Has been terminated or has received a notice of termination  
6 of employment as a result of any permanent closure or any  
7 substantial layoff at a plant, facility, or enterprise, including an  
8 individual who has not received written notification but whose  
9 employer has made a public announcement of the closure or layoff.

10 (cc) Is long-term unemployed and has limited opportunities for  
11 employment or reemployment in the same or a similar occupation  
12 in the area in which the individual resides, including an individual  
13 55 years of age or older who may have substantial barriers to  
14 employment by reason of age.

15 (dd) Was self-employed (including farmers and ranchers) and  
16 is unemployed as a result of general economic conditions in the  
17 community in which he or she resides or because of natural  
18 disasters.

19 (ee) Was a civilian employee of the Department of Defense  
20 employed at a military installation being closed or realigned under  
21 the Defense Base Closure and Realignment Act of 1990.

22 (ff) Was an active member of the Armed Forces or National  
23 Guard as of September 30, 1990, and was either involuntarily  
24 separated or separated pursuant to a special benefits program.

25 (gg) Is a seasonal or migrant worker who experiences chronic  
26 seasonal unemployment and underemployment in the agriculture  
27 industry, aggravated by continual advancements in technology and  
28 mechanization.

29 (hh) Has been terminated or laid off, or has received a notice  
30 of termination or layoff, as a consequence of compliance with the  
31 Clean Air Act.

32 (V) Immediately preceding the qualified employee's  
33 commencement of employment with the qualified taxpayer, was  
34 a disabled individual who is eligible for or enrolled in, or has  
35 completed a state rehabilitation plan or is a service-connected  
36 disabled veteran, veteran of the Vietnam era, or veteran who is  
37 recently separated from military service.

38 (VI) Immediately preceding the qualified employee's  
39 commencement of employment with the qualified taxpayer, was  
40 an ex-offender. An individual shall be treated as convicted if he

1 or she was placed on probation by a state court without a finding  
2 of guilty.

3 (VII) Immediately preceding the qualified employee's  
4 commencement of employment with the qualified taxpayer, was  
5 a person eligible for or a recipient of any of the following:

6 (aa) Federal Supplemental Security Income benefits.

7 (bb) Aid to Families with Dependent Children.

8 (cc) Food stamps.

9 (dd) State and local general assistance.

10 (VIII) Immediately preceding the qualified employee's  
11 commencement of employment with the qualified taxpayer, was  
12 a member of a federally recognized Indian tribe, band, or other  
13 group of Native American descent.

14 (IX) Immediately preceding the qualified employee's  
15 commencement of employment with the qualified taxpayer, was  
16 a resident of a targeted tax area.

17 (X) Immediately preceding the qualified employee's  
18 commencement of employment with the taxpayer, was a member  
19 of a targeted group as defined in Section 51(d) of the Internal  
20 Revenue Code, or its successor.

21 (B) Priority for employment shall be provided to an individual  
22 who is enrolled in a qualified program under the federal Job  
23 Training Partnership Act or the Greater Avenues for Independence  
24 Act of 1985 or who is eligible as a member of a targeted group  
25 under the Work Opportunity Tax Credit (Section 51 of the Internal  
26 Revenue Code), or its successor.

27 (5) (A) "Qualified taxpayer" means a person or entity that meets  
28 both of the following:

29 (i) Is engaged in a trade or business within a targeted tax area  
30 designated pursuant to Chapter 12.93 (commencing with Section  
31 7097) of Division 7 of Title 1 of the Government Code.

32 (ii) Is engaged in those lines of business described in Codes  
33 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
34 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
35 of the Standard Industrial Classification (SIC) Manual published  
36 by the United States Office of Management and Budget, 1987  
37 edition.

38 (B) In the case of any passthrough entity, the determination of  
39 whether a taxpayer is a qualified taxpayer under this section shall  
40 be made at the entity level and any credit under this section or

1 Section 23634 shall be allowed to the passthrough entity and passed  
2 through to the partners or shareholders in accordance with  
3 applicable provisions of this part or Part 11 (commencing with  
4 Section 23001). For purposes of this subdivision, the term  
5 “passthrough entity” means any partnership or “S” corporation.

6 (6) “Seasonal employment” means employment by a qualified  
7 taxpayer that has regular and predictable substantial reductions in  
8 trade or business operations.

9 (c) If the qualified taxpayer is allowed a credit for qualified  
10 wages pursuant to this section, only one credit shall be allowed to  
11 the taxpayer under this part with respect to those qualified wages.

12 (d) The qualified taxpayer shall do both of the following:

13 (1) Obtain from the Employment Development Department, as  
14 permitted by federal law, the local county or city Job Training  
15 Partnership Act administrative entity, the local county GAIN office  
16 or social services agency, or the local government administering  
17 the targeted tax area, a certification that provides that a qualified  
18 employee meets the eligibility requirements specified in clause  
19 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The  
20 Employment Development Department may provide preliminary  
21 screening and referral to a certifying agency. The Department of  
22 Housing and Community Development shall develop regulations  
23 governing the issuance of certificates pursuant to subdivision (g)  
24 of Section 7097 of the Government Code, and shall develop forms  
25 for this purpose.

26 (2) Retain a copy of the certification and provide it upon request  
27 to the Franchise Tax Board.

28 (e) (1) For purposes of this section:

29 (A) All employees of trades or businesses, which are not  
30 incorporated, that are under common control shall be treated as  
31 employed by a single taxpayer.

32 (B) The credit, if any, allowable by this section with respect to  
33 each trade or business shall be determined by reference to its  
34 proportionate share of the expense of the qualified wages giving  
35 rise to the credit, and shall be allocated in that manner.

36 (C) Principles that apply in the case of controlled groups of  
37 corporations, as specified in subdivision (d) of Section 23634,  
38 shall apply with respect to determining employment.

39 (2) If an employer acquires the major portion of a trade or  
40 business of another employer (hereinafter in this paragraph referred

1 to as the “predecessor”) or the major portion of a separate unit of  
2 a trade or business of a predecessor, then, for purposes of applying  
3 this section (other than subdivision (f)) for any calendar year ending  
4 after that acquisition, the employment relationship between a  
5 qualified employee and an employer shall not be treated as  
6 terminated if the employee continues to be employed in that trade  
7 or business.

8 (f) (1) (A) If the employment, other than seasonal employment,  
9 of any qualified employee, with respect to whom qualified wages  
10 are taken into account under subdivision (a) is terminated by the  
11 qualified taxpayer at any time during the first 270 days of that  
12 employment (whether or not consecutive) or before the close of  
13 the 270th calendar day after the day in which that employee  
14 completes 90 days of employment with the qualified taxpayer, the  
15 tax imposed by this part for the taxable year in which that  
16 employment is terminated shall be increased by an amount equal  
17 to the credit allowed under subdivision (a) for that taxable year  
18 and all prior taxable years attributable to qualified wages paid or  
19 incurred with respect to that employee.

20 (B) If the seasonal employment of any qualified employee, with  
21 respect to whom qualified wages are taken into account under  
22 subdivision (a) is not continued by the qualified taxpayer for a  
23 period of 270 days of employment during the 60-month period  
24 beginning with the day the qualified employee commences seasonal  
25 employment with the qualified taxpayer, the tax imposed by this  
26 part, for the taxable year that includes the 60th month following  
27 the month in which the qualified employee commences seasonal  
28 employment with the qualified taxpayer, shall be increased by an  
29 amount equal to the credit allowed under subdivision (a) for that  
30 taxable year and all prior taxable years attributable to qualified  
31 wages paid or incurred with respect to that qualified employee.

32 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
33 any of the following:

34 (i) A termination of employment of a qualified employee who  
35 voluntarily leaves the employment of the qualified taxpayer.

36 (ii) A termination of employment of a qualified employee who,  
37 before the close of the period referred to in subparagraph (A) of  
38 paragraph (1), becomes disabled and unable to perform the services  
39 of that employment, unless that disability is removed before the

1 close of that period and the qualified taxpayer fails to offer  
2 reemployment to that employee.

3 (iii) A termination of employment of a qualified employee, if  
4 it is determined that the termination was due to the misconduct (as  
5 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
6 the California Code of Regulations) of that employee.

7 (iv) A termination of employment of a qualified employee due  
8 to a substantial reduction in the trade or business operations of the  
9 qualified taxpayer.

10 (v) A termination of employment of a qualified employee, if  
11 that employee is replaced by other qualified employees so as to  
12 create a net increase in both the number of employees and the  
13 hours of employment.

14 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
15 of the following:

16 (i) A failure to continue the seasonal employment of a qualified  
17 employee who voluntarily fails to return to the seasonal  
18 employment of the qualified taxpayer.

19 (ii) A failure to continue the seasonal employment of a qualified  
20 employee who, before the close of the period referred to in  
21 subparagraph (B) of paragraph (1), becomes disabled and unable  
22 to perform the services of that seasonal employment, unless that  
23 disability is removed before the close of that period and the  
24 qualified taxpayer fails to offer seasonal employment to that  
25 qualified employee.

26 (iii) A failure to continue the seasonal employment of a qualified  
27 employee, if it is determined that the failure to continue the  
28 seasonal employment was due to the misconduct (as defined in  
29 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California  
30 Code of Regulations) of that qualified employee.

31 (iv) A failure to continue seasonal employment of a qualified  
32 employee due to a substantial reduction in the regular seasonal  
33 trade or business operations of the qualified taxpayer.

34 (v) A failure to continue the seasonal employment of a qualified  
35 employee, if that qualified employee is replaced by other qualified  
36 employees so as to create a net increase in both the number of  
37 seasonal employees and the hours of seasonal employment.

38 (C) For purposes of paragraph (1), the employment relationship  
39 between the qualified taxpayer and a qualified employee shall not  
40 be treated as terminated by reason of a mere change in the form



1 of conducting the trade or business of the qualified taxpayer, if the  
2 qualified employee continues to be employed in that trade or  
3 business and the qualified taxpayer retains a substantial interest  
4 in that trade or business.

5 (3) Any increase in tax under paragraph (1) shall not be treated  
6 as tax imposed by this part for purposes of determining the amount  
7 of any credit allowable under this part.

8 (g) In the case of an estate or trust, both of the following apply:

9 (1) The qualified wages for any taxable year shall be apportioned  
10 between the estate or trust and the beneficiaries on the basis of the  
11 income of the estate or trust allocable to each.

12 (2) Any beneficiary to whom any qualified wages have been  
13 apportioned under paragraph (1) shall be treated, for purposes of  
14 this part, as the employer with respect to those wages.

15 (h) For purposes of this section, “targeted tax area” means an  
16 area designated pursuant to Chapter 12.93 (commencing with  
17 Section 7097) of Division 7 of Title 1 of the Government Code.

18 (i) In the case where the credit otherwise allowed under this  
19 section exceeds the “net tax” for the taxable year, that portion of  
20 the credit that exceeds the “net tax” may be carried over and added  
21 to the credit, if any, in succeeding taxable years, until the credit is  
22 exhausted. The credit shall be applied first to the earliest taxable  
23 years possible.

24 (j) (1) The amount of the credit otherwise allowed under this  
25 section and Section 17053.33, including any credit carryover from  
26 prior years, that may reduce the “net tax” for the taxable year shall  
27 not exceed the amount of tax that would be imposed on the  
28 qualified taxpayer’s business income attributable to the targeted  
29 tax area determined as if that attributable income represented all  
30 of the income of the qualified taxpayer subject to tax under this  
31 part.

32 (2) Attributable income shall be that portion of the taxpayer’s  
33 California source business income that is apportioned to the  
34 targeted tax area. For that purpose, the taxpayer’s business income  
35 attributable to sources in this state first shall be determined in  
36 accordance with Chapter 17 (commencing with Section 25101) of  
37 Part 11. That business income shall be further apportioned to the  
38 targeted tax area in accordance with Article 2 (commencing with  
39 Section 25120) of Chapter 17 of Part 11, modified for purposes  
40 of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area expiration date, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(k) (1) The credit authorized by this section shall not be allowed for taxable years beginning on or after January 1, 2008.

(2) On or after January 1, 2008, taxpayers that would otherwise be eligible to claim a credit authorized by this section may claim a credit for these expenses under Section 17053.76.

(3) Notwithstanding this subdivision, the provisions of subdivision (d) of Section 17039 shall apply with respect to any remaining carryover of the credit previously authorized by this section.

SEC. 2. Section 17053.46 of the Revenue and Taxation Code is amended to read:

17053.46. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced

1 employee during the taxable year for employment in the LAMBRA.

2 The credit shall be equal to the sum of each of the following:

3 (1) Fifty percent of the qualified wages in the first year of  
4 employment.

5 (2) Forty percent of the qualified wages in the second year of  
6 employment.

7 (3) Thirty percent of the qualified wages in the third year of  
8 employment.

9 (4) Twenty percent of the qualified wages in the fourth year of  
10 employment.

11 (5) Ten percent of the qualified wages in the fifth year of  
12 employment.

13 (b) For purposes of this section:

14 (1) "Qualified wages" means:

15 (A) That portion of wages paid or incurred by the employer  
16 during the taxable year to qualified disadvantaged individuals or  
17 qualified displaced employees that does not exceed 150 percent  
18 of the minimum wage.

19 (B) The total amount of qualified wages which may be taken  
20 into account for purposes of claiming the credit allowed under this  
21 section shall not exceed two million dollars (\$2,000,000) per  
22 taxable year.

23 (C) Wages received during the 60-month period beginning with  
24 the first day the individual commences employment with the  
25 taxpayer. Reemployment in connection with any increase, including  
26 a regularly occurring seasonal increase, in the trade or business  
27 operations of the qualified taxpayer does not constitute  
28 commencement of employment for purposes of this section.

29 (D) Qualified wages do not include any wages paid or incurred  
30 by the qualified taxpayer on or after the LAMBRA expiration date.  
31 However, wages paid or incurred with respect to qualified  
32 disadvantaged individuals or qualified displaced employees who  
33 are employed by the qualified taxpayer within the LAMBRA within  
34 the 60-month period prior to the LAMBRA expiration date shall  
35 continue to qualify for the credit under this section after the  
36 LAMBRA expiration date, in accordance with all provisions of  
37 this section applied as if the LAMBRA designation were still in  
38 existence and binding.

39 (2) "Minimum wage" means the wage established by the  
40 Industrial Welfare Commission as provided for in Chapter 1

1 (commencing with Section 1171) of Part 4 of Division 2 of the  
2 Labor Code.

3 (3) “LAMBRA” means a local agency military base recovery  
4 area designated in accordance with Section 7114 of the Government  
5 Code.

6 (4) “Qualified disadvantaged individual” means an individual  
7 who satisfies all of the following requirements:

8 (A) (i) At least 90 percent of whose services for the taxpayer  
9 during the taxable year are directly related to the conduct of the  
10 taxpayer’s trade or business located in a LAMBRA.

11 (ii) Who performs at least 50 percent of his or her services for  
12 the taxpayer during the taxable year in the LAMBRA.

13 (B) Who is hired by the employer after the designation of the  
14 area as a LAMBRA in which the individual’s services were  
15 primarily performed.

16 (C) Who is any of the following immediately preceding the  
17 individual’s commencement of employment with the taxpayer:

18 (i) An individual who has been determined eligible for services  
19 under the federal Job Training Partnership Act (29 U.S.C. Sec.  
20 1501 et seq.).

21 (ii) Any voluntary or mandatory registrant under the Greater  
22 Avenues for Independence Act of 1985 as provided pursuant to  
23 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part  
24 3 of Division 9 of the Welfare and Institutions Code.

25 (iii) An economically disadvantaged individual age 16 years or  
26 older.

27 (iv) A dislocated worker who meets any of the following  
28 conditions:

29 (I) Has been terminated or laid off or who has received a notice  
30 of termination or layoff from employment, is eligible for or has  
31 exhausted entitlement to unemployment insurance benefits, and  
32 is unlikely to return to his or her previous industry or occupation.

33 (II) Has been terminated or has received a notice of termination  
34 of employment as a result of any permanent closure or any  
35 substantial layoff at a plant, facility, or enterprise, including an  
36 individual who has not received written notification but whose  
37 employer has made a public announcement of the closure or layoff.

38 (III) Is long-term unemployed and has limited opportunities for  
39 employment or reemployment in the same or a similar occupation  
40 in the area in which the individual resides, including an individual

1 55 years of age or older who may have substantial barriers to  
2 employment by reason of age.

3 (IV) Was self-employed (including farmers and ranchers) and  
4 is unemployed as a result of general economic conditions in the  
5 community in which he or she resides or because of natural  
6 disasters.

7 (V) Was a civilian employee of the Department of Defense  
8 employed at a military installation being closed or realigned under  
9 the Defense Base Closure and Realignment Act of 1990.

10 (VI) Was an active member of the Armed Forces or National  
11 Guard as of September 30, 1990, and was either involuntarily  
12 separated or separated pursuant to a special benefits program.

13 (VII) Experiences chronic seasonal unemployment and  
14 underemployment in the agriculture industry, aggravated by  
15 continual advancements in technology and mechanization.

16 (VIII) Has been terminated or laid off or has received a notice  
17 of termination or layoff as a consequence of compliance with the  
18 Clean Air Act.

19 (v) An individual who is enrolled in or has completed a state  
20 rehabilitation plan or is a service-connected disabled veteran,  
21 veteran of the Vietnam era, or veteran who is recently separated  
22 from military service.

23 (vi) An ex-offender. An individual shall be treated as convicted  
24 if he or she was placed on probation by a state court without a  
25 finding of guilty.

26 (vii) A recipient of:

27 (I) Federal Supplemental Security Income benefits.

28 (II) Aid to Families with Dependent Children.

29 (III) Food stamps.

30 (IV) State and local general assistance.

31 (viii) Is a member of a federally recognized Indian tribe, band,  
32 or other group of Native American descent.

33 (5) "Qualified taxpayer" means a taxpayer or partnership that  
34 conducts a trade or business within a LAMBRA and, for the first  
35 two taxable years, has a net increase in jobs (defined as 2,000 paid  
36 hours per employee per year) of one or more employees in the  
37 LAMBRA.

38 (A) The net increase in the number of jobs shall be determined  
39 by subtracting the total number of full-time employees (defined  
40 as 2,000 paid hours per employee per year) the taxpayer employed

1 in this state in the taxable year prior to commencing business  
2 operations in the LAMBRA from the total number of full-time  
3 employees the taxpayer employed in this state during the second  
4 taxable year after commencing business operations in the  
5 LAMBRA. For taxpayers who commence doing business in this  
6 state with their LAMBRA business operation, the number of  
7 employees for the taxable year prior to commencing business  
8 operations in the LAMBRA shall be zero. If the taxpayer has a net  
9 increase in jobs in the state, the credit shall be allowed only if one  
10 or more full-time employees is employed within the LAMBRA.

11 (B) The total number of employees employed in the LAMBRA  
12 shall equal the sum of both of the following:

13 (i) The total number of hours worked in the LAMBRA for the  
14 taxpayer by employees (not to exceed 2,000 hours per employee)  
15 who are paid an hourly wage divided by 2,000.

16 (ii) The total number of months worked in the LAMBRA for  
17 the taxpayer by employees who are salaried employees divided  
18 by 12.

19 (C) In the case of a taxpayer who first commences doing  
20 business in the LAMBRA during the taxable year, for purposes of  
21 clauses (i) and (ii), respectively, of subparagraph (B), the divisors  
22 “2,000” and “12” shall be multiplied by a fraction, the numerator  
23 of which is the number of months of the taxable year that the  
24 taxpayer was doing business in the LAMBRA and the denominator  
25 of which is 12.

26 (6) “Qualified displaced employee” means an individual who  
27 satisfies all of the following requirements:

28 (A) Any civilian or military employee of a base or former base  
29 who has been displaced as a result of a federal base closure act.

30 (B) (i) At least 90 percent of whose services for the taxpayer  
31 during the taxable year are directly related to the conduct of the  
32 taxpayer’s trade or business located in a LAMBRA.

33 (ii) Who performs at least 50 percent of his or her services for  
34 the taxpayer during the taxable year in a LAMBRA.

35 (C) Who is hired by the employer after the designation of the  
36 area in which services were performed as a LAMBRA.

37 (7) “Seasonal employment” means employment by a qualified  
38 taxpayer that has regular and predictable substantial reductions in  
39 trade or business operations.

1 (8) "LAMBRA expiration date" means the date the LAMBRA  
2 designation expires, is no longer binding, or becomes inoperative.

3 (c) For qualified disadvantaged individuals or qualified displaced  
4 employees hired on or after January 1, 2001, the taxpayer shall do  
5 both of the following:

6 (1) Obtain from the Employment Development Department, as  
7 permitted by federal law, the local county or city Job Training  
8 Partnership Act administrative entity, the local county GAIN office  
9 or social services agency, or the local government administering  
10 the LAMBRA, a certification that provides that a qualified  
11 disadvantaged individual or qualified displaced employee meets  
12 the eligibility requirements specified in subparagraph (C) of  
13 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph  
14 (6) of subdivision (b). The Employment Development Department  
15 may provide preliminary screening and referral to a certifying  
16 agency. The Department of Housing and Community Development  
17 shall develop regulations governing the issuance of certificates  
18 pursuant to Section 7114.2 of the Government Code and shall  
19 develop forms for this purpose.

20 (2) Retain a copy of the certification and provide it upon request  
21 to the Franchise Tax Board.

22 (d) (1) For purposes of this section, both of the following apply:

23 (A) All employees of trades or businesses that are under  
24 common control shall be treated as employed by a single employer.

25 (B) The credit (if any) allowable by this section with respect to  
26 each trade or business shall be determined by reference to its  
27 proportionate share of the qualified wages giving rise to the credit.

28 The regulations prescribed under this paragraph shall be based  
29 on principles similar to the principles that apply in the case of  
30 controlled groups of corporations as specified in subdivision (e)  
31 of Section 23622.

32 (2) If an employer acquires the major portion of a trade or  
33 business of another employer (hereinafter in this paragraph referred  
34 to as the "predecessor") or the major portion of a separate unit of  
35 a trade or business of a predecessor, then, for purposes of applying  
36 this section (other than subdivision (d)) for any calendar year  
37 ending after that acquisition, the employment relationship between  
38 an employee and an employer shall not be treated as terminated if  
39 the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.



1 (iv) A termination of employment of an individual due to a  
2 substantial reduction in the trade or business operations of the  
3 taxpayer.

4 (v) A termination of employment of an individual, if that  
5 individual is replaced by other qualified employees so as to create  
6 a net increase in both the number of employees and the hours of  
7 employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified  
11 disadvantaged individual who voluntarily fails to return to the  
12 seasonal employment of the qualified taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified  
14 disadvantaged individual who, before the close of the period  
15 referred to in subparagraph (B) of paragraph (1), becomes disabled  
16 and unable to perform the services of that seasonal employment,  
17 unless that disability is removed before the close of that period  
18 and the qualified taxpayer fails to offer seasonal employment to  
19 that individual.

20 (iii) A failure to continue the seasonal employment of a qualified  
21 disadvantaged individual, if it is determined that the failure to  
22 continue the seasonal employment was due to the misconduct (as  
23 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
24 the California Code of Regulations) of that qualified disadvantaged  
25 individual.

26 (iv) A failure to continue seasonal employment of a qualified  
27 disadvantaged individual due to a substantial reduction in the  
28 regular seasonal trade or business operations of the qualified  
29 taxpayer.

30 (v) A failure to continue the seasonal employment of a qualified  
31 disadvantaged individual, if that individual is replaced by other  
32 qualified displaced employees so as to create a net increase in both  
33 the number of seasonal employees and the hours of seasonal  
34 employment.

35 (C) For purposes of paragraph (1), the employment relationship  
36 between the taxpayer and an employee shall not be treated as  
37 terminated by reason of a mere change in the form of conducting  
38 the trade or business of the taxpayer, if the employee continues to  
39 be employed in that trade or business and the taxpayer retains a  
40 substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(4) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (5) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's net tax for the taxpayer's second taxable year.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(g) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 17053.45, including prior year credit carryovers, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributed income represented all of the net income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of

1 Part 11. That business income shall be further apportioned to the  
2 LAMBRA in accordance with Article 2 (commencing with Section  
3 25120) of Chapter 17 of Part 11, modified for purposes of this  
4 section in accordance with paragraph (3).

5 (3) Income shall be apportioned to a LAMBRA by multiplying  
6 the total California business income of the taxpayer by a fraction,  
7 the numerator of which is the property factor plus the payroll factor,  
8 and the denominator of which is two. For purposes of this  
9 paragraph:

10 (A) The property factor is a fraction, the numerator of which is  
11 the average value of the taxpayer's real and tangible personal  
12 property owned or rented and used in the LAMBRA during the  
13 taxable year, and the denominator of which is the average value  
14 of all the taxpayer's real and tangible personal property owned or  
15 rented and used in this state during the taxable year.

16 (B) The payroll factor is a fraction, the numerator of which is  
17 the total amount paid by the taxpayer in the LAMBRA during the  
18 taxable year for compensation, and the denominator of which is  
19 the total compensation paid by the taxpayer in this state during the  
20 taxable year.

21 (4) The portion of any credit remaining, if any, after application  
22 of this subdivision, shall be carried over to succeeding taxable  
23 years, as if it were an amount exceeding the "net tax" for the  
24 taxable year, as provided in subdivision (h).

25 (j) If the taxpayer is allowed a credit pursuant to this section for  
26 qualified wages paid or incurred, only one credit shall be allowed  
27 to the taxpayer under this part with respect to any wage consisting  
28 in whole or in part of those qualified wages.

29 (k) (1) The credit authorized by this section shall not be allowed  
30 for taxable years beginning on or after January 1, 2008.

31 (2) On or after January 1, 2008, taxpayers that would otherwise  
32 be eligible to claim a credit authorized by this section may claim  
33 a credit for these expenses under Section 17053.76.

34 (3) Notwithstanding this subdivision, the provisions of  
35 subdivision (d) of Section 17039 shall apply with respect to any  
36 remaining carryover of the credit previously authorized by this  
37 section.

38 SEC. 3. Section 17053.47 of the Revenue and Taxation Code  
39 is amended to read:

1 17053.47. (a) For each taxable year beginning on or after  
2 January 1, 1998, there shall be allowed a credit against the “net  
3 tax” (as defined in Section 17039) to a qualified taxpayer for hiring  
4 a qualified disadvantaged individual during the taxable year for  
5 employment in the manufacturing enhancement area. The credit  
6 shall be equal to the sum of each of the following:

7 (1) Fifty percent of the qualified wages in the first year of  
8 employment.

9 (2) Forty percent of the qualified wages in the second year of  
10 employment.

11 (3) Thirty percent of the qualified wages in the third year of  
12 employment.

13 (4) Twenty percent of the qualified wages in the fourth year of  
14 employment.

15 (5) Ten percent of the qualified wages in the fifth year of  
16 employment.

17 (b) For purposes of this section:

18 (1) “Qualified wages” means:

19 (A) That portion of wages paid or incurred by the qualified  
20 taxpayer during the taxable year to qualified disadvantaged  
21 individuals that does not exceed 150 percent of the minimum wage.

22 (B) The total amount of qualified wages which may be taken  
23 into account for purposes of claiming the credit allowed under this  
24 section shall not exceed two million dollars (\$2,000,000) per  
25 taxable year.

26 (C) Wages received during the 60-month period beginning with  
27 the first day the qualified disadvantaged individual commences  
28 employment with the qualified taxpayer. Reemployment in  
29 connection with any increase, including a regularly occurring  
30 seasonal increase, in the trade or business operations of the taxpayer  
31 does not constitute commencement of employment for purposes  
32 of this section.

33 (D) Qualified wages do not include any wages paid or incurred  
34 by the qualified taxpayer on or after the manufacturing  
35 enhancement area expiration date. However, wages paid or incurred  
36 with respect to qualified employees who are employed by the  
37 qualified taxpayer within the manufacturing enhancement area  
38 within the 60-month period prior to the manufacturing enhancement  
39 area expiration date shall continue to qualify for the credit under  
40 this section after the manufacturing enhancement area expiration

1 date, in accordance with all provisions of this section applied as  
2 if the manufacturing enhancement area designation were still in  
3 existence and binding.

4 (2) “Minimum wage” means the wage established by the  
5 Industrial Welfare Commission as provided for in Chapter 1  
6 (commencing with Section 1171) of Part 4 of Division 2 of the  
7 Labor Code.

8 (3) “Manufacturing enhancement area” means an area designated  
9 pursuant to Section 7073.8 of the Government Code according to  
10 the procedures of Chapter 12.8 (commencing with Section 7070)  
11 of Division 7 of Title 1 of the Government Code.

12 (4) “Manufacturing enhancement area expiration date” means  
13 the date the manufacturing enhancement area designation expires,  
14 is no longer binding, or becomes inoperative.

15 (5) “Qualified disadvantaged individual” means an individual  
16 who satisfies all of the following requirements:

17 (A) (i) At least 90 percent of whose services for the qualified  
18 taxpayer during the taxable year are directly related to the conduct  
19 of the qualified taxpayer’s trade or business located in a  
20 manufacturing enhancement area.

21 (ii) Who performs at least 50 percent of his or her services for  
22 the qualified taxpayer during the taxable year in the manufacturing  
23 enhancement area.

24 (B) Who is hired by the qualified taxpayer after the designation  
25 of the area as a manufacturing enhancement area in which the  
26 individual’s services were primarily performed.

27 (C) Who is any of the following immediately preceding the  
28 individual’s commencement of employment with the qualified  
29 taxpayer:

30 (i) An individual who has been determined eligible for services  
31 under the federal Job Training Partnership Act (29 U.S.C. Sec.  
32 1501 et seq.), or its successor.

33 (ii) Any voluntary or mandatory registrant under the Greater  
34 Avenues for Independence Act of 1985, or its successor, as  
35 provided pursuant to Article 3.2 (commencing with Section 11320)  
36 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
37 Code.

38 (iii) Any individual who has been certified eligible by the  
39 Employment Development Department under the federal Targeted

1 Jobs Tax Credit Program, or its successor, whether or not this  
2 program is in effect.

3 (6) “Qualified taxpayer” means any taxpayer engaged in a trade  
4 or business within a manufacturing enhancement area designated  
5 pursuant to Section 7073.8 of the Government Code and who meets  
6 all of the following requirements:

7 (A) Is engaged in those lines of business described in Codes  
8 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,  
9 inclusive, of the Standard Industrial Classification (SIC) Manual  
10 published by the United States Office of Management and Budget,  
11 1987 edition.

12 (B) At least 50 percent of the qualified taxpayer’s workforce  
13 hired after the designation of the manufacturing enhancement area  
14 is composed of individuals who, at the time of hire, are residents  
15 of the county in which the manufacturing enhancement area is  
16 located.

17 (C) Of this percentage of local hires, at least 30 percent shall  
18 be qualified disadvantaged individuals.

19 (7) “Seasonal employment” means employment by a qualified  
20 taxpayer that has regular and predictable substantial reductions in  
21 trade or business operations.

22 (c) (1) For purposes of this section, all of the following apply:

23 (A) All employees of trades or businesses that are under  
24 common control shall be treated as employed by a single qualified  
25 taxpayer.

26 (B) The credit (if any) allowable by this section with respect to  
27 each trade or business shall be determined by reference to its  
28 proportionate share of the expense of the qualified wages giving  
29 rise to the credit and shall be allocated in that manner.

30 (C) Principles that apply in the case of controlled groups of  
31 corporations, as specified in subdivision (d) of Section 23622.7,  
32 shall apply with respect to determining employment.

33 (2) If a qualified taxpayer acquires the major portion of a trade  
34 or business of another employer (hereinafter in this paragraph  
35 referred to as the “predecessor”) or the major portion of a separate  
36 unit of a trade or business of a predecessor, then, for purposes of  
37 applying this section (other than subdivision (d)) for any calendar  
38 year ending after that acquisition, the employment relationship  
39 between a qualified disadvantaged individual and a qualified  
40 taxpayer shall not be treated as terminated if the qualified

1 disadvantaged individual continues to be employed in that trade  
2 or business.

3 (d) (1) (A) If the employment, other than seasonal employment,  
4 of any qualified disadvantaged individual, with respect to whom  
5 qualified wages are taken into account under subdivision (b) is  
6 terminated by the qualified taxpayer at any time during the first  
7 270 days of that employment (whether or not consecutive) or before  
8 the close of the 270th calendar day after the day in which that  
9 qualified disadvantaged individual completes 90 days of  
10 employment with the qualified taxpayer, the tax imposed by this  
11 part for the taxable year in which that employment is terminated  
12 shall be increased by an amount equal to the credit allowed under  
13 subdivision (a) for that taxable year and all prior taxable years  
14 attributable to qualified wages paid or incurred with respect to that  
15 qualified disadvantaged individual.

16 (B) If the seasonal employment of any qualified disadvantaged  
17 individual, with respect to whom qualified wages are taken into  
18 account under subdivision (a) is not continued by the qualified  
19 taxpayer for a period of 270 days of employment during the  
20 60-month period beginning with the day the qualified  
21 disadvantaged individual commences seasonal employment with  
22 the qualified taxpayer, the tax imposed by this part, for the taxable  
23 year that includes the 60th month following the month in which  
24 the qualified disadvantaged individual commences seasonal  
25 employment with the qualified taxpayer, shall be increased by an  
26 amount equal to the credit allowed under subdivision (a) for that  
27 taxable year and all prior taxable years attributable to qualified  
28 wages paid or incurred with respect to that qualified disadvantaged  
29 individual.

30 (2) (A) Subparagraph (A) of paragraph (1) does not apply to  
31 any of the following:

32 (i) A termination of employment of a qualified disadvantaged  
33 individual who voluntarily leaves the employment of the qualified  
34 taxpayer.

35 (ii) A termination of employment of a qualified disadvantaged  
36 individual who, before the close of the period referred to in  
37 subparagraph (A) of paragraph (1), becomes disabled to perform  
38 the services of that employment, unless that disability is removed  
39 before the close of that period and the taxpayer fails to offer  
40 reemployment to that individual.

1 (iii) A termination of employment of a qualified disadvantaged  
2 individual, if it is determined that the termination was due to the  
3 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,  
4 of Title 22 of the California Code of Regulations) of that individual.

5 (iv) A termination of employment of a qualified disadvantaged  
6 individual due to a substantial reduction in the trade or business  
7 operations of the qualified taxpayer.

8 (v) A termination of employment of a qualified disadvantaged  
9 individual, if that individual is replaced by other qualified  
10 disadvantaged individuals so as to create a net increase in both the  
11 number of employees and the hours of employment.

12 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
13 of the following:

14 (i) A failure to continue the seasonal employment of a qualified  
15 disadvantaged individual who voluntarily fails to return to the  
16 seasonal employment of the qualified taxpayer.

17 (ii) A failure to continue the seasonal employment of a qualified  
18 disadvantaged individual who, before the close of the period  
19 referred to in subparagraph (B) of paragraph (1), becomes disabled  
20 and unable to perform the services of that seasonal employment,  
21 unless that disability is removed before the close of that period  
22 and the qualified taxpayer fails to offer seasonal employment to  
23 that qualified disadvantaged individual.

24 (iii) A failure to continue the seasonal employment of a qualified  
25 disadvantaged individual, if it is determined that the failure to  
26 continue the seasonal employment was due to the misconduct (as  
27 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
28 the California Code of Regulations) of that qualified disadvantaged  
29 individual.

30 (iv) A failure to continue seasonal employment of a qualified  
31 disadvantaged individual due to a substantial reduction in the  
32 regular seasonal trade or business operations of the qualified  
33 taxpayer.

34 (v) A failure to continue the seasonal employment of a qualified  
35 disadvantaged individual, if that qualified disadvantaged individual  
36 is replaced by other qualified disadvantaged individuals so as to  
37 create a net increase in both the number of seasonal employees  
38 and the hours of seasonal employment.

39 (C) For purposes of paragraph (1), the employment relationship  
40 between the qualified taxpayer and a qualified disadvantaged



1 individual shall not be treated as terminated by reason of a mere  
2 change in the form of conducting the trade or business of the  
3 qualified taxpayer, if the qualified disadvantaged individual  
4 continues to be employed in that trade or business and the qualified  
5 taxpayer retains a substantial interest in that trade or business.

6 (3) Any increase in tax under paragraph (1) shall not be treated  
7 as tax imposed by this part for purposes of determining the amount  
8 of any credit allowable under this part.

9 (e) In the case of an estate or trust, both of the following apply:

10 (1) The qualified wages for any taxable year shall be apportioned  
11 between the estate or trust and the beneficiaries on the basis of the  
12 income of the estate or trust allocable to each.

13 (2) Any beneficiary to whom any qualified wages have been  
14 apportioned under paragraph (1) shall be treated (for purposes of  
15 this part) as the employer with respect to those wages.

16 (f) The credit shall be reduced by the credit allowed under  
17 Section 17053.7. The credit shall also be reduced by the federal  
18 credit allowed under Section 51 of the Internal Revenue Code.

19 In addition, any deduction otherwise allowed under this part for  
20 the wages or salaries paid or incurred by the qualified taxpayer  
21 upon which the credit is based shall be reduced by the amount of  
22 the credit, prior to any reduction required by subdivision (g) or  
23 (h).

24 (g) In the case where the credit otherwise allowed under this  
25 section exceeds the “net tax” for the taxable year, that portion of  
26 the credit that exceeds the “net tax” may be carried over and added  
27 to the credit, if any, in succeeding years, until the credit is  
28 exhausted. The credit shall be applied first to the earliest taxable  
29 years possible.

30 (h) (1) The amount of credit otherwise allowed under this  
31 section, including prior year credit carryovers, that may reduce  
32 the “net tax” for the taxable year shall not exceed the amount of  
33 tax that would be imposed on the qualified taxpayer’s business  
34 income attributed to a manufacturing enhancement area determined  
35 as if that attributed income represented all of the net income of the  
36 qualified taxpayer subject to tax under this part.

37 (2) Attributable income shall be that portion of the taxpayer’s  
38 California source business income that is apportioned to the  
39 manufacturing enhancement area. For that purpose, the taxpayer’s  
40 business income that is attributable to sources in this state first

1 shall be determined in accordance with Chapter 17 (commencing  
2 with Section 25101) of Part 11. That business income shall be  
3 further apportioned to the manufacturing enhancement area in  
4 accordance with Article 2 (commencing with Section 25120) of  
5 Chapter 17 of Part 11, modified for purposes of this section in  
6 accordance with paragraph (3).

7 (3) Income shall be apportioned to a manufacturing enhancement  
8 area by multiplying the total California business income of the  
9 taxpayer by a fraction, the numerator of which is the property  
10 factor plus the payroll factor, and the denominator of which is two.  
11 For purposes of this paragraph:

12 (A) The property factor is a fraction, the numerator of which is  
13 the average value of the taxpayer's real and tangible personal  
14 property owned or rented and used in the manufacturing  
15 enhancement area during the taxable year, and the denominator  
16 of which is the average value of all the taxpayer's real and tangible  
17 personal property owned or rented and used in this state during  
18 the taxable year.

19 (B) The payroll factor is a fraction, the numerator of which is  
20 the total amount paid by the taxpayer in the manufacturing  
21 enhancement area during the taxable year for compensation, and  
22 the denominator of which is the total compensation paid by the  
23 taxpayer in this state during the taxable year.

24 (4) The portion of any credit remaining, if any, after application  
25 of this subdivision, shall be carried over to succeeding taxable  
26 years, as if it were an amount exceeding the "net tax" for the  
27 taxable year, as provided in subdivision (g).

28 (i) If the taxpayer is allowed a credit pursuant to this section for  
29 qualified wages paid or incurred, only one credit shall be allowed  
30 to the taxpayer under this part with respect to any wage consisting  
31 in whole or in part of those qualified wages.

32 (j) The qualified taxpayer shall do both of the following:

33 (1) Obtain from the Employment Development Department, as  
34 permitted by federal law, the local county or city Job Training  
35 Partnership Act administrative entity, the local county GAIN office  
36 or social services agency, or the local government administering  
37 the manufacturing enhancement area, a certification that provides  
38 that a qualified disadvantaged individual meets the eligibility  
39 requirements specified in paragraph (5) of subdivision (b). The  
40 Employment Development Department may provide preliminary

1 screening and referral to a certifying agency. The Department of  
2 Housing and Community Development shall develop regulations  
3 governing the issuance of certificates pursuant to subdivision (d)  
4 of Section 7086 of the Government Code and shall develop forms  
5 for this purpose.

6 (2) Retain a copy of the certification and provide it upon request  
7 to the Franchise Tax Board.

8 (k) (1) The credit authorized by this section shall not be allowed  
9 for taxable years beginning on or after January 1, 2008.

10 (2) On or after January 1, 2008, taxpayers that would otherwise  
11 be eligible to claim a credit authorized by this section may claim  
12 a credit for these expenses under Section 17053.76.

13 (3) Notwithstanding this subdivision, the provisions of  
14 subdivision (d) of Section 17039 shall apply with respect to any  
15 remaining carryover of the credit previously authorized by this  
16 section.

17 SEC. 4. Section 17053.74 of the Revenue and Taxation Code  
18 is amended to read:

19 17053.74. (a) There shall be allowed a credit against the “net  
20 tax” (as defined in Section 17039) to a taxpayer who employs a  
21 qualified employee in an enterprise zone during the taxable year.  
22 The credit shall be equal to the sum of each of the following:

23 (1) Fifty percent of qualified wages in the first year of  
24 employment.

25 (2) Forty percent of qualified wages in the second year of  
26 employment.

27 (3) Thirty percent of qualified wages in the third year of  
28 employment.

29 (4) Twenty percent of qualified wages in the fourth year of  
30 employment.

31 (5) Ten percent of qualified wages in the fifth year of  
32 employment.

33 (b) For purposes of this section:

34 (1) “Qualified wages” means:

35 (A) (i) Except as provided in clause (ii), that portion of wages  
36 paid or incurred by the taxpayer during the taxable year to qualified  
37 employees that does not exceed 150 percent of the minimum wage.

38 (ii) For up to 1,350 qualified employees who are employed by  
39 the taxpayer in the Long Beach Enterprise Zone in aircraft  
40 manufacturing activities described in Codes 3721 to 3728,

1 inclusive, and Code 3812 of the Standard Industrial Classification  
2 (SIC) Manual published by the United States Office of  
3 Management and Budget, 1987 edition, “qualified wages” means  
4 that portion of hourly wages that does not exceed 202 percent of  
5 the minimum wage.

6 (B) Wages received during the 60-month period beginning with  
7 the first day the employee commences employment with the  
8 taxpayer. Reemployment in connection with any increase, including  
9 a regularly occurring seasonal increase, in the trade or business  
10 operations of the taxpayer does not constitute commencement of  
11 employment for purposes of this section.

12 (C) Qualified wages do not include any wages paid or incurred  
13 by the taxpayer on or after the zone expiration date. However,  
14 wages paid or incurred with respect to qualified employees who  
15 are employed by the taxpayer within the enterprise zone within  
16 the 60-month period prior to the zone expiration date shall continue  
17 to qualify for the credit under this section after the zone expiration  
18 date, in accordance with all provisions of this section applied as  
19 if the enterprise zone designation were still in existence and  
20 binding.

21 (2) “Minimum wage” means the wage established by the  
22 Industrial Welfare Commission as provided for in Chapter 1  
23 (commencing with Section 1171) of Part 4 of Division 2 of the  
24 Labor Code.

25 (3) “Zone expiration date” means the date the enterprise zone  
26 designation expires, is no longer binding, or becomes inoperative.

27 (4) (A) “Qualified employee” means an individual who meets  
28 all of the following requirements:

29 (i) At least 90 percent of whose services for the taxpayer during  
30 the taxable year are directly related to the conduct of the taxpayer’s  
31 trade or business located in an enterprise zone.

32 (ii) Performs at least 50 percent of his or her services for the  
33 taxpayer during the taxable year in an enterprise zone.

34 (iii) Is hired by the taxpayer after the date of original designation  
35 of the area in which services were performed as an enterprise zone.

36 (iv) Is any of the following:

37 (I) Immediately preceding the qualified employee’s  
38 commencement of employment with the taxpayer, was a person  
39 eligible for services under the federal Job Training Partnership  
40 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,

1 or is eligible to receive, subsidized employment, training, or  
2 services funded by the federal Job Training Partnership Act, or its  
3 successor.

4 (II) Immediately preceding the qualified employee's  
5 commencement of employment with the taxpayer, was a person  
6 eligible to be a voluntary or mandatory registrant under the Greater  
7 Avenues for Independence Act of 1985 (GAIN) provided for  
8 pursuant to Article 3.2 (commencing with Section 11320) of  
9 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
10 Code, or its successor.

11 (III) Immediately preceding the qualified employee's  
12 commencement of employment with the taxpayer, was an  
13 economically disadvantaged individual 14 years of age or older.

14 (IV) Immediately preceding the qualified employee's  
15 commencement of employment with the taxpayer, was a dislocated  
16 worker who meets any of the following:

17 (aa) Has been terminated or laid off or who has received a notice  
18 of termination or layoff from employment, is eligible for or has  
19 exhausted entitlement to unemployment insurance benefits, and  
20 is unlikely to return to his or her previous industry or occupation.

21 (bb) Has been terminated or has received a notice of termination  
22 of employment as a result of any permanent closure or any  
23 substantial layoff at a plant, facility, or enterprise, including an  
24 individual who has not received written notification but whose  
25 employer has made a public announcement of the closure or layoff.

26 (cc) Is long-term unemployed and has limited opportunities for  
27 employment or reemployment in the same or a similar occupation  
28 in the area in which the individual resides, including an individual  
29 55 years of age or older who may have substantial barriers to  
30 employment by reason of age.

31 (dd) Was self-employed (including farmers and ranchers) and  
32 is unemployed as a result of general economic conditions in the  
33 community in which he or she resides or because of natural  
34 disasters.

35 (ee) Was a civilian employee of the Department of Defense  
36 employed at a military installation being closed or realigned under  
37 the Defense Base Closure and Realignment Act of 1990.

38 (ff) Was an active member of the armed forces or National  
39 Guard as of September 30, 1990, and was either involuntarily  
40 separated or separated pursuant to a special benefits program.

1 (gg) Is a seasonal or migrant worker who experiences chronic  
2 seasonal unemployment and underemployment in the agriculture  
3 industry, aggravated by continual advancements in technology and  
4 mechanization.

5 (hh) Has been terminated or laid off, or has received a notice  
6 of termination or layoff, as a consequence of compliance with the  
7 Clean Air Act.

8 (V) Immediately preceding the qualified employee's  
9 commencement of employment with the taxpayer, was a disabled  
10 individual who is eligible for or enrolled in, or has completed a  
11 state rehabilitation plan or is a service-connected disabled veteran,  
12 veteran of the Vietnam era, or veteran who is recently separated  
13 from military service.

14 (VI) Immediately preceding the qualified employee's  
15 commencement of employment with the taxpayer, was an  
16 ex-offender. An individual shall be treated as convicted if he or  
17 she was placed on probation by a state court without a finding of  
18 guilt.

19 (VII) Immediately preceding the qualified employee's  
20 commencement of employment with the taxpayer, was a person  
21 eligible for or a recipient of any of the following:

22 (aa) Federal Supplemental Security Income benefits.

23 (bb) Aid to Families with Dependent Children.

24 (cc) Food stamps.

25 (dd) State and local general assistance.

26 (VIII) Immediately preceding the qualified employee's  
27 commencement of employment with the taxpayer, was a member  
28 of a federally recognized Indian tribe, band, or other group of  
29 Native American descent.

30 (IX) Immediately preceding the qualified employee's  
31 commencement of employment with the taxpayer, was a resident  
32 of a targeted employment area, as defined in Section 7072 of the  
33 Government Code.

34 (X) An employee who qualified the taxpayer for the enterprise  
35 zone hiring credit under former Section 17053.8 or the program  
36 area hiring credit under former Section 17053.11.

37 (XI) Immediately preceding the qualified employee's  
38 commencement of employment with the taxpayer, was a member  
39 of a targeted group, as defined in Section 51(d) of the Internal  
40 Revenue Code, or its successor.

1 (B) Priority for employment shall be provided to an individual  
2 who is enrolled in a qualified program under the federal Job  
3 Training Partnership Act or the Greater Avenues for Independence  
4 Act of 1985 or who is eligible as a member of a targeted group  
5 under the Work Opportunity Tax Credit (Section 51 of the Internal  
6 Revenue Code), or its successor.

7 (5) "Taxpayer" means a person or entity engaged in a trade or  
8 business within an enterprise zone designated pursuant to Chapter  
9 12.8 (commencing with Section 7070) of the Government Code.

10 (6) "Seasonal employment" means employment by a taxpayer  
11 that has regular and predictable substantial reductions in trade or  
12 business operations.

13 (c) The taxpayer shall do both of the following:

14 (1) Obtain from the Employment Development Department, as  
15 permitted by federal law, the local county or city Job Training  
16 Partnership Act administrative entity, the local county GAIN office  
17 or social services agency, or the local government administering  
18 the enterprise zone, a certification which provides that a qualified  
19 employee meets the eligibility requirements specified in clause  
20 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The  
21 Employment Development Department may provide preliminary  
22 screening and referral to a certifying agency. The Employment  
23 Development Department shall develop a form for this purpose.  
24 The Department of Housing and Community Development shall  
25 develop regulations governing the issuance of certificates by local  
26 governments pursuant to subdivision (a) of Section 7086 of the  
27 Government Code.

28 (2) Retain a copy of the certification and provide it upon request  
29 to the Franchise Tax Board.

30 (d) (1) For purposes of this section:

31 (A) All employees of trades or businesses, which are not  
32 incorporated, that are under common control shall be treated as  
33 employed by a single taxpayer.

34 (B) The credit, if any, allowable by this section with respect to  
35 each trade or business shall be determined by reference to its  
36 proportionate share of the expense of the qualified wages giving  
37 rise to the credit, and shall be allocated in that manner.

38 (C) Principles that apply in the case of controlled groups of  
39 corporations, as specified in subdivision (d) of Section 23622.7,  
40 shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment,



1 unless that disability is removed before the close of that period  
2 and the taxpayer fails to offer reemployment to that employee.

3 (iii) A termination of employment of a qualified employee, if  
4 it is determined that the termination was due to the misconduct (as  
5 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
6 the California Code of Regulations) of that employee.

7 (iv) A termination of employment of a qualified employee due  
8 to a substantial reduction in the trade or business operations of the  
9 taxpayer.

10 (v) A termination of employment of a qualified employee, if  
11 that employee is replaced by other qualified employees so as to  
12 create a net increase in both the number of employees and the  
13 hours of employment.

14 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
15 of the following:

16 (i) A failure to continue the seasonal employment of a qualified  
17 employee who voluntarily fails to return to the seasonal  
18 employment of the taxpayer.

19 (ii) A failure to continue the seasonal employment of a qualified  
20 employee who, before the close of the period referred to in  
21 subparagraph (B) of paragraph (1), becomes disabled and unable  
22 to perform the services of that seasonal employment, unless that  
23 disability is removed before the close of that period and the  
24 taxpayer fails to offer seasonal employment to that qualified  
25 employee.

26 (iii) A failure to continue the seasonal employment of a qualified  
27 employee, if it is determined that the failure to continue the  
28 seasonal employment was due to the misconduct (as defined in  
29 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California  
30 Code of Regulations) of that qualified employee.

31 (iv) A failure to continue seasonal employment of a qualified  
32 employee due to a substantial reduction in the regular seasonal  
33 trade or business operations of the taxpayer.

34 (v) A failure to continue the seasonal employment of a qualified  
35 employee, if that qualified employee is replaced by other qualified  
36 employees so as to create a net increase in both the number of  
37 seasonal employees and the hours of seasonal employment.

38 (C) For purposes of paragraph (1), the employment relationship  
39 between the taxpayer and a qualified employee shall not be treated  
40 as terminated by reason of a mere change in the form of conducting

1 the trade or business of the taxpayer, if the qualified employee  
2 continues to be employed in that trade or business and the taxpayer  
3 retains a substantial interest in that trade or business.

4 (3) Any increase in tax under paragraph (1) shall not be treated  
5 as tax imposed by this part for purposes of determining the amount  
6 of any credit allowable under this part.

7 (f) In the case of an estate or trust, both of the following apply:

8 (1) The qualified wages for any taxable year shall be apportioned  
9 between the estate or trust and the beneficiaries on the basis of the  
10 income of the estate or trust allocable to each.

11 (2) Any beneficiary to whom any qualified wages have been  
12 apportioned under paragraph (1) shall be treated, for purposes of  
13 this part, as the employer with respect to those wages.

14 (g) For purposes of this section, “enterprise zone” means an  
15 area designated as an enterprise zone pursuant to Chapter 12.8  
16 (commencing with Section 7070) of Division 7 of Title 1 of the  
17 Government Code.

18 (h) The credit allowable under this section shall be reduced by  
19 the credit allowed under Sections 17053.10, 17053.17 and 17053.46  
20 claimed for the same employee. The credit shall also be reduced  
21 by the federal credit allowed under Section 51 of the Internal  
22 Revenue Code.

23 In addition, any deduction otherwise allowed under this part for  
24 the wages or salaries paid or incurred by the taxpayer upon which  
25 the credit is based shall be reduced by the amount of the credit,  
26 prior to any reduction required by subdivision (i) or (j).

27 (i) In the case where the credit otherwise allowed under this  
28 section exceeds the “net tax” for the taxable year, that portion of  
29 the credit that exceeds the “net tax” may be carried over and added  
30 to the credit, if any, in succeeding taxable years, until the credit is  
31 exhausted. The credit shall be applied first to the earliest taxable  
32 years possible.

33 (j) (1) The amount of the credit otherwise allowed under this  
34 section and Section 17053.70, including any credit carryover from  
35 prior years, that may reduce the “net tax” for the taxable year shall  
36 not exceed the amount of tax which would be imposed on the  
37 taxpayer’s business income attributable to the enterprise zone  
38 determined as if that attributable income represented all of the  
39 income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1997.

(l) (1) The credit authorized by this section shall not be allowed for taxable years beginning on or after January 1, 2008.

(2) On or after January 1, 2008, taxpayers that would otherwise be eligible to claim a credit authorized by this section may claim a credit for these expenses under Section 17053.76.

(3) Notwithstanding this subdivision, the provisions of subdivision (d) of Section 17039 shall apply with respect to any

1 remaining carryover of the credit previously authorized by this  
2 section.

3 SEC. 5. Section 17053.76 is added to the Revenue and Taxation  
4 Code, to read:

5 17053.76. (a) For each taxable year beginning on or after  
6 January 1, 2008, there shall be allowed a credit against the “net  
7 tax,” as defined in Section 17039, to a ~~taxpayer~~ *qualified taxpayer*  
8 who employs a qualified employee in a geographically targeted  
9 economic development area during the taxable year. ~~The amount~~  
10 ~~of credit shall be equal to 30 percent of the amount of all qualified~~  
11 ~~wages paid to a qualified employee during each year of his or her~~  
12 ~~employment with the taxpayer, not to exceed five full calendar~~  
13 ~~years of employment per each qualified employee. The credit shall~~  
14 ~~be equal to the sum of each of the following:~~

15 (1) *Fifty percent of the qualified wages in the first year of*  
16 *employment.*

17 (2) *Forty percent of the qualified wages in the second year of*  
18 *employment.*

19 (3) *Thirty percent of the qualified wages in the third year of*  
20 *employment.*

21 (4) *Twenty percent of the qualified wages in the fourth year of*  
22 *employment.*

23 (5) *Ten percent of the qualified wages in the fifth year of*  
24 *employment.*

25 (b) For purposes of this section, all of the following definitions  
26 apply:

27 (1) “Geographically targeted economic development area”  
28 means any of the following:

29 (A) An enterprise zone designated as an enterprise zone pursuant  
30 to Chapter 12.8 (commencing with Section 7070) of Division 7 of  
31 Title 1 of the Government Code.

32 (B) A local agency military base recovery area designated as a  
33 local agency military base recovery area pursuant to Chapter 12.97  
34 (commencing with Section 7105).

35 (C) A targeted tax area designated as a targeted tax area pursuant  
36 to Chapter 12.93 (commencing with Section 7097).

37 (D) A manufacturing enhancement area designated as a  
38 manufacturing enhancement area pursuant to Chapter 12.8  
39 (commencing with Section 7073.8).

(2) “Geographically targeted economic development area expiration date” means the date the geographically targeted economic development area designation expires, is no longer binding, or becomes inoperative.

(3) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the ~~taxpayer~~ *qualified taxpayer* during the taxable year are directly related to the conduct of the ~~taxpayer’s~~ *qualified taxpayer’s* trade or business located in a geographically targeted economic development area.

(ii) Performs at least 50 percent of his or her services for the ~~taxpayer~~ *qualified taxpayer* during the taxable year in a geographically targeted economic development area.

(iii) Is initially hired by the ~~taxpayer~~ *qualified taxpayer* after the date of original designation of the area in which services were performed as a geographically targeted economic development area.

(iv) Is any of the following, as documented by the geographically targeted economic development area coordinator:

(I) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person enrolled and documented in the California Job Training Automation System by an authorized WIA representative under the federal Workforce Investment Act (29 U.S.C. Sec. 720 et seq.), or its successor.

(II) ~~Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person receiving benefits under the California Work Opportunity and Responsibility to Kids program pursuant to Article 3.2 (commencing with Section 11200) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~ *commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment,*

1 *training, or services funded by the federal Job Training Partnership*  
2 *Act, or its successor.*

3 *(II) Immediately preceding the qualified employee's*  
4 *commencement of employment with the qualified taxpayer, was a*  
5 *person eligible to be a voluntary or mandatory registrant under*  
6 *the Greater Avenues for Independence Act of 1985 (GAIN)*  
7 *program provided for pursuant to Article 3.2 (commencing with*  
8 *Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare*  
9 *and Institutions Code, or its successor.*

10 *(III) Immediately preceding the qualified employee's*  
11 *commencement of employment with the ~~taxpayer~~ qualified*  
12 *taxpayer, was an economically disadvantaged individual—14 16*  
13 *years of age or older. For purposes of this section, "economically*  
14 *disadvantaged individual" means an individual who meets the*  
15 *definition of that term under the Workforce Investment Act, or its*  
16 *successor.*

17 *(IV) Immediately preceding the qualified employee's*  
18 *commencement of employment with the ~~taxpayer~~ qualified*  
19 *taxpayer, was a dislocated worker. For purposes of this section, a*  
20 *"dislocated worker" means an individual who meets the definition*  
21 *of that term under the Workforce Investment Act, or its successor.*  
22 *worker who meets any of the following requirements:*

23 *(aa) Has been terminated or laid off or who has received a*  
24 *notice of termination of layoff from employment, is eligible for or*  
25 *has exhausted entitlement to unemployment insurance benefits,*  
26 *and is unlikely to return to his or her previous industry or*  
27 *occupation.*

28 *(bb) Has been terminated or has received a notice of termination*  
29 *of employment as a result of any permanent closure or any*  
30 *substantial layoff at a plant, facility, or enterprise, including an*  
31 *individual who has not received written notification but whose*  
32 *employer has made a public announcement of the closure or layoff.*

33 *(cc) Is long-term unemployed and has limited opportunities for*  
34 *employment or reemployment in the same or a similar occupation*  
35 *in the area in which the individual resides, including an individual*  
36 *55 years of age or older who may have substantial barriers to*  
37 *employment by reason of age.*

38 *(dd) Was self-employed (including farmers and ranchers) and*  
39 *is unemployed as a result of general economic conditions in the*

1 *community in which he or she resides or because of natural*  
2 *disasters.*

3 *(ee) Was a civilian employee of the Department of Defense*  
4 *employed at a military installation being closed or realigned under*  
5 *the Defense Base Closure and Realignment Act of 1990.*

6 *(ff) Was an active member of the Armed Forces or National*  
7 *Guard as of September 30, 1990, and was either involuntarily*  
8 *separated or separated pursuant to a special benefits program.*

9 *(gg) Is a seasonal or migrant worker who experiences chronic*  
10 *seasonal unemployment and underemployment in the agriculture*  
11 *industry, aggravated by continual advancements in technology*  
12 *and mechanization.*

13 *(hh) Has been terminated or laid off, or has received a notice*  
14 *of termination or layoff, as a consequence of compliance with the*  
15 *Clean Air Act.*

16 *(V) Immediately preceding the qualified employee's*  
17 *commencement of employment with the taxpayer qualified*  
18 *taxpayer, was a disabled individual who is eligible for or enrolled*  
19 *in, or has completed a state rehabilitation plan.*

20 *(VI) Is an individual who was discharged or released from*  
21 *service under conditions other than dishonorable, and is either any*  
22 *of the following:*

23 *(aa) A service-connected disabled veteran.*

24 *(bb) An individual who was discharged or released in the last*  
25 *48 months from active military, naval, or an air service.*

26 *(cc) An individual who served in the active military, naval, or*  
27 *air service of the United States between February 28, 1961, and*  
28 *May 8, 1975.*

29 *(dd) An individual who was discharged or released in the last*  
30 *48 months from active service in the National Guard if the*  
31 *individual served on foreign soil prior to discharge.*

32 ~~*(VII) Has a prior felony conviction. An individual shall be*~~  
33 ~~*treated as convicted if he or she was placed on probation by a state*~~  
34 ~~*court without a finding of guilt.*~~

35 *(VII) Is an individual who has been convicted of a felony or a*  
36 *misdemeanor offense punishable by incarceration, or a person*  
37 *charged with a felony offense or a misdemeanor offense punishable*  
38 *by incarceration but placed on probation by a state court without*  
39 *a finding of guilt.*

1     (VIII) *Is an individual who is a former member of a criminal*  
2 *street gang, certified as such by a federal, state, or local law*  
3 *enforcement agency.*

4     ~~(VIII)~~

5     (IX) Immediately preceding the qualified employee's  
6 commencement of employment with the ~~taxpayer~~ *qualified*  
7 *taxpayer*, was a person ~~receiving~~ *eligible for, or a recipient of*, any  
8 of the following:

9     (aa) Federal Supplemental Security Income benefits.

10    (bb) Temporary Assistance for Needy Families.

11    (cc) Food stamps.

12    (dd) State and local general assistance.

13    ~~(IX)~~

14    (X) Immediately preceding the qualified employee's  
15 commencement of employment with the ~~taxpayer~~ *qualified*  
16 *taxpayer*, was a member of a federally recognized Indian tribe,  
17 band, or other group of Native American descent.

18    ~~(X)~~

19    (XI) Immediately preceding the qualified employee's  
20 commencement of employment with the ~~taxpayer~~ *qualified*  
21 *taxpayer*, was a resident of a targeted employment area, as defined  
22 in Section 7072 of the Government Code.

23    (XII) *Immediately preceding the qualified employee's*  
24 *commencement of employment with the qualified taxpayer located*  
25 *in a targeted tax area, was a resident of that targeted tax area.*

26    ~~(XI)~~

27    (XIII) Immediately preceding the qualified employee's  
28 commencement of employment with the ~~taxpayer~~ *qualified*  
29 *taxpayer*, was a member of a targeted group, as defined in Section  
30 51(d) of the Internal Revenue Code, or its successor.

31    ~~(XII) Immediately preceding the qualified employee's~~  
32 ~~commencement of employment with the taxpayer, was a "qualified~~  
33 ~~former foster care recipient," which means an individual who is~~  
34 ~~certified by the local designated agency to have met both the~~  
35 ~~following:~~

36    ~~(aa) Having attained age 17 but not age 25 on the hiring date.~~

37    ~~(bb) Having, before attaining the age of 18, been either a~~  
38 ~~recipient of foster care maintenance payments under a state plan~~  
39 ~~approved under Part E of Title IV of the Social Security Act (42~~



1 ~~U.S.C. Sec. 301), or in foster care under the responsibility of a~~  
2 ~~state.~~

3 (B) (i) Priority for employment shall be provided to any of the  
4 following individuals:

5 (I) An individual who is enrolled in a qualified program under  
6 the federal Workforce Investment Act, or its successor.

7 (II) An individual who is enrolled in the California Work  
8 Opportunity and Responsibility to Kids program, or its successor.

9 (III) An individual who is eligible as a member of a targeted  
10 group under the Work Opportunity Tax Credit (Section 51 of the  
11 Internal Revenue Code), or its successor.

12 (ii) On or before December 15 of each calendar year, the  
13 Employment Development Department shall report to the  
14 Legislature regarding the following information:

15 (I) Types of training and services that the department provided,  
16 in the previous fiscal year, to the individuals enrolled and  
17 documented in the California Job Training Automation System  
18 and in the California Work Opportunity and Responsibility to Kids  
19 Program.

20 (II) Number of individuals enrolled in the California Job  
21 Training Automation System and in the California Work  
22 Opportunity and Responsibility to Kids Program who, in the  
23 previous fiscal year, were referred by the Employment  
24 Development Department to the geographically targeted economic  
25 development area programs for employment.

26 (5) "Qualified wages" means the following:

27 (A) (i) Except as provided in clause (ii), that portion of wages  
28 paid or incurred by the ~~taxpayer~~ *qualified taxpayer* during the  
29 taxable year to qualified employees that does not exceed 150  
30 percent of the minimum wage.

31 (ii) For up to 1,350 qualified employees who are employed by  
32 the ~~taxpayer~~ *qualified taxpayer* in the Long Beach Enterprise Zone  
33 in aircraft ~~manufacturing activities described in Codes 3721 to~~  
34 ~~3728, inclusive, and Code 3812 of the Standard Industrial~~  
35 ~~Classification (SIC) Manual published by the United States Office~~  
36 ~~of Management and Budget, 1987 edition, "qualified wages" means~~  
37 *manufacturing activities described as industrial activities in the*  
38 *North American Industry Classification System Manual, published*  
39 *by the United States Office of Management and Budget, "qualified*  
40 *wages" means that portion of hourly wages that does not exceed*

1 202 percent of the minimum wage. *The Employment Development*  
2 *Department shall determine which classifications apply and*  
3 *annually publish those classifications on the Employment*  
4 *Development Department's Web site.*

5 (B) Wages received during the 60-month period beginning with  
6 the first day the employee commences employment with the  
7 ~~taxpayer~~ *qualified taxpayer*. Reemployment in connection with  
8 any increase, including a regularly occurring seasonal increase, in  
9 the trade or business operations of the ~~taxpayer~~ *qualified taxpayer*  
10 does not constitute commencement of employment for purposes  
11 of this section.

12 (C) Qualified wages do not include any wages paid or incurred  
13 by the ~~taxpayer~~ *qualified taxpayer* on or after the expiration date  
14 of the geographically targeted economic development area.  
15 However, wages paid or incurred with respect to qualified  
16 employees who are employed by the ~~taxpayer~~ *qualified taxpayer*  
17 within the geographically targeted economic development area  
18 within the 60-month period prior to the zone expiration date shall  
19 continue to qualify for the credit under this section after the  
20 expiration date of the geographically targeted economic  
21 development area, in accordance with all provisions of this section  
22 applied as if the geographically targeted economic development  
23 area designation were still in existence and binding.

24 (6) "Seasonal employment" means employment by a ~~taxpayer~~  
25 *qualified taxpayer* that has regular and predictable substantial  
26 reductions in trade or business operations.

27 ~~(7) "Taxpayer" means a person or entity engaged in a trade or~~  
28 ~~business within a geographically targeted economic development~~  
29 ~~area.~~

30 (7) "*Qualified taxpayer*" means a taxpayer that meets any of  
31 the following requirements:

32 (A) *Is a person or entity engaged in a trade or business within*  
33 *an enterprise zone designated pursuant to Chapter 12.8*  
34 *(commencing with Section 7070) of Division 7 of Title 1 of the*  
35 *Government Code.*

36 (B) *Is a person or entity engaged in a trade or business within*  
37 *a local agency military base recovery area designated pursuant*  
38 *to Chapter 12.97 (commencing with Section 7105) of the*  
39 *Government Code.*

40 (C) *Is a person or entity that meets both of the following:*

(i) *Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of the Government Code, or is engaged in a trade or business within a manufacturing enhancement area designated pursuant to Chapter 12.8 (commencing with Section 7073.8) of the Government Code.*

(ii) *Is engaged in those lines of business described as industrial in the North American Industry Classification System Manual, published by the United States Office of Management and Budget. The Employment Development Department shall determine which classifications apply and annually publish those classifications on the Employment Development Department's Web site.*

(c) ~~The taxpayer~~ *qualified taxpayer* shall do both of the following:

(1) Obtain a certificate from the geographically targeted economic development area coordinator designated by the local jurisdiction in which the employee is employed. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code. ~~Applications for this certification shall be submitted to the certifying agency within 24 months of the commencement date of employment with the taxpayer. The certifying agency shall not~~ *Code. The certifying agency shall not* issue a certification when the employer or the employer's agent is the second signatory on the applicant's statement for establishing eligibility.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single ~~taxpayer~~ *qualified taxpayer*.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.9, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section, other than subdivision (e), for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the ~~taxpayer~~ *qualified taxpayer* at any time during the first 270 days of that employment, whether or not consecutive, or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the ~~taxpayer~~ *qualified taxpayer*, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the ~~taxpayer~~ *qualified taxpayer* for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the ~~taxpayer~~ *qualified taxpayer*, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the ~~taxpayer~~ *qualified taxpayer*, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee. If the employer is located in an area where a state of disaster has been declared, a qualified employee has 360 additional days of nonemployment for purposes of determining his or her status as a “qualified employee,” as defined in this section.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

1 (i) A termination of employment of a qualified employee who  
2 voluntarily leaves the employment of the ~~taxpayer~~ *qualified*  
3 *taxpayer*.

4 (ii) A termination of employment of a qualified employee who,  
5 before the close of the period referred to in paragraph (1), becomes  
6 disabled and unable to perform the services of that employment,  
7 unless that disability is removed before the close of that period  
8 and the ~~taxpayer~~ *qualified taxpayer* fails to offer reemployment  
9 to that employee.

10 (iii) A termination of employment of a qualified employee, if  
11 it is determined that the termination was due to the misconduct (as  
12 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
13 the California Code of Regulations) of that employee.

14 (iv) A termination of employment of a qualified employee due  
15 to a substantial reduction in the trade or business operations of the  
16 ~~taxpayer~~ *qualified taxpayer*.

17 (v) A termination of employment of a qualified employee, if  
18 that employee is replaced by other qualified employees so as to  
19 create a net increase in both the number of employees and the  
20 hours of employment.

21 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
22 of the following:

23 (i) A failure to continue the seasonal employment of a qualified  
24 employee who voluntarily fails to return to the seasonal  
25 employment of the ~~taxpayer~~ *qualified taxpayer*.

26 (ii) A failure to continue the seasonal employment of a qualified  
27 employee who, before the close of the period referred to in  
28 subparagraph (B) of paragraph (1), becomes disabled and unable  
29 to perform the services of that seasonal employment, unless that  
30 disability is removed before the close of that period and the  
31 ~~taxpayer~~ *qualified taxpayer* fails to offer seasonal employment to  
32 that qualified employee.

33 (iii) A failure to continue the seasonal employment of a qualified  
34 employee, if it is determined that the failure to continue the  
35 seasonal employment was due to the misconduct (as defined in  
36 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California  
37 Code of Regulations) of that qualified employee.

38 (iv) A failure to continue seasonal employment of a qualified  
39 employee due to a substantial reduction in the regular seasonal  
40 trade or business operations of the ~~taxpayer~~ *qualified taxpayer*.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the ~~taxpayer~~ *qualified taxpayer* and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the ~~taxpayer~~ *qualified taxpayer*, if the qualified employee continues to be employed in that trade or business and the ~~taxpayer~~ *qualified taxpayer* retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) (1) The credit allowable under this section shall be reduced ~~by the credit allowed under Sections 17053.10 and 17053.17 claimed for the same employee. The credit shall also be reduced~~ by the federal credit allowed under Section 51 of the Internal Revenue Code.

(2) Any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the ~~taxpayer~~ *qualified taxpayer* upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision

(h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of the credit otherwise allowed under this section and ~~Section 17053.70~~ *Sections 17053.33, 17053.45, and 17053.70*, including any credit carryover from prior years, that

may reduce the “net tax” for the taxable year shall not exceed the amount of tax which would be imposed on the ~~taxpayer’s~~ *qualified taxpayer’s* business income attributable to the geographically targeted economic development area determined as if that attributable income represented all of the income of the ~~taxpayer~~ *qualified taxpayer* subject to tax under this part.

(2) Attributable income shall be that portion of the ~~taxpayer’s~~ *qualified taxpayer’s* California source business income that is apportioned to the geographically targeted economic development area. For that purpose, the ~~taxpayer’s~~ *qualified taxpayer’s* business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the geographically targeted economic development area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the geographically targeted economic development area by multiplying the total California business income of the ~~taxpayer~~ *qualified taxpayer* by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the ~~taxpayer’s~~ *qualified taxpayer’s* real and tangible personal property owned or rented and used in the geographically targeted economic development area during the taxable year, and the denominator of which is the average value of all the ~~taxpayer’s~~ *qualified taxpayer’s* real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the ~~taxpayer~~ *qualified taxpayer* in the geographically targeted economic development area during the taxable year for compensation, and the denominator of which is the total compensation paid by the ~~taxpayer~~ *qualified taxpayer* in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable

1 years, as if it were an amount exceeding the “net tax” for the  
2 taxable year, as provided in subdivision (h).

3 (j) *The credit allowed to a qualified taxpayer pursuant to this*  
4 *section shall be known and may be cited as the Enterprise Zone*  
5 *Credit.*

6 SEC. 6. Section 23622.7 of the Revenue and Taxation Code  
7 is amended to read:

8 23622.7. (a) There shall be allowed a credit against the “tax”  
9 (as defined by Section 23036) to a taxpayer who employs a  
10 qualified employee in an enterprise zone during the taxable year.  
11 The credit shall be equal to the sum of each of the following:

12 (1) Fifty percent of qualified wages in the first year of  
13 employment.

14 (2) Forty percent of qualified wages in the second year of  
15 employment.

16 (3) Thirty percent of qualified wages in the third year of  
17 employment.

18 (4) Twenty percent of qualified wages in the fourth year of  
19 employment.

20 (5) Ten percent of qualified wages in the fifth year of  
21 employment.

22 (b) For purposes of this section:

23 (1) “Qualified wages” means:

24 (A) (i) Except as provided in clause (ii), that portion of wages  
25 paid or incurred by the taxpayer during the taxable year to qualified  
26 employees that does not exceed 150 percent of the minimum wage.

27 (ii) For up to 1,350 qualified employees who are employed by  
28 the taxpayer in the Long Beach Enterprise Zone in aircraft  
29 manufacturing activities described in Codes 3721 to 3728,  
30 inclusive, and Code 3812 of the Standard Industrial Classification  
31 (SIC) Manual published by the United States Office of  
32 Management and Budget, 1987 edition, “qualified wages” means  
33 that portion of hourly wages that does not exceed 202 percent of  
34 the minimum wage.

35 (B) Wages received during the 60-month period beginning with  
36 the first day the employee commences employment with the  
37 taxpayer. Reemployment in connection with any increase, including  
38 a regularly occurring seasonal increase, in the trade or business  
39 operations of the taxpayer does not constitute commencement of  
40 employment for purposes of this section.



1 (C) Qualified wages do not include any wages paid or incurred  
2 by the taxpayer on or after the zone expiration date. However,  
3 wages paid or incurred with respect to qualified employees who  
4 are employed by the taxpayer within the enterprise zone within  
5 the 60-month period prior to the zone expiration date shall continue  
6 to qualify for the credit under this section after the zone expiration  
7 date, in accordance with all provisions of this section applied as  
8 if the enterprise zone designation were still in existence and  
9 binding.

10 (2) "Minimum wage" means the wage established by the  
11 Industrial Welfare Commission as provided for in Chapter 1  
12 (commencing with Section 1171) of Part 4 of Division 2 of the  
13 Labor Code.

14 (3) "Zone expiration date" means the date the enterprise zone  
15 designation expires, is no longer binding, or becomes inoperative.

16 (4) (A) "Qualified employee" means an individual who meets  
17 all of the following requirements:

18 (i) At least 90 percent of whose services for the taxpayer during  
19 the taxable year are directly related to the conduct of the taxpayer's  
20 trade or business located in an enterprise zone.

21 (ii) Performs at least 50 percent of his or her services for the  
22 taxpayer during the taxable year in an enterprise zone.

23 (iii) Is hired by the taxpayer after the date of original designation  
24 of the area in which services were performed as an enterprise zone.

25 (iv) Is any of the following:

26 (I) Immediately preceding the qualified employee's  
27 commencement of employment with the taxpayer, was a person  
28 eligible for services under the federal Job Training Partnership  
29 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,  
30 or is eligible to receive, subsidized employment, training, or  
31 services funded by the federal Job Training Partnership Act, or its  
32 successor.

33 (II) Immediately preceding the qualified employee's  
34 commencement of employment with the taxpayer, was a person  
35 eligible to be a voluntary or mandatory registrant under the Greater  
36 Avenues for Independence Act of 1985 (GAIN) provided for  
37 pursuant to Article 3.2 (commencing with Section 11320) of  
38 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
39 Code, or its successor.

1 (III) Immediately preceding the qualified employee's  
2 commencement of employment with the taxpayer, was an  
3 economically disadvantaged individual 14 years of age or older.

4 (IV) Immediately preceding the qualified employee's  
5 commencement of employment with the taxpayer, was a dislocated  
6 worker who meets any of the following:

7 (aa) Has been terminated or laid off or who has received a notice  
8 of termination or layoff from employment, is eligible for or has  
9 exhausted entitlement to unemployment insurance benefits, and  
10 is unlikely to return to his or her previous industry or occupation.

11 (bb) Has been terminated or has received a notice of termination  
12 of employment as a result of any permanent closure or any  
13 substantial layoff at a plant, facility, or enterprise, including an  
14 individual who has not received written notification but whose  
15 employer has made a public announcement of the closure or layoff.

16 (cc) Is long-term unemployed and has limited opportunities for  
17 employment or reemployment in the same or a similar occupation  
18 in the area in which the individual resides, including an individual  
19 55 years of age or older who may have substantial barriers to  
20 employment by reason of age.

21 (dd) Was self-employed (including farmers and ranchers) and  
22 is unemployed as a result of general economic conditions in the  
23 community in which he or she resides or because of natural  
24 disasters.

25 (ee) Was a civilian employee of the Department of Defense  
26 employed at a military installation being closed or realigned under  
27 the Defense Base Closure and Realignment Act of 1990.

28 (ff) Was an active member of the armed forces or National  
29 Guard as of September 30, 1990, and was either involuntarily  
30 separated or separated pursuant to a special benefits program.

31 (gg) Is a seasonal or migrant worker who experiences chronic  
32 seasonal unemployment and underemployment in the agriculture  
33 industry, aggravated by continual advancements in technology and  
34 mechanization.

35 (hh) Has been terminated or laid off, or has received a notice  
36 of termination or layoff, as a consequence of compliance with the  
37 Clean Air Act.

38 (V) Immediately preceding the qualified employee's  
39 commencement of employment with the taxpayer, was a disabled  
40 individual who is eligible for or enrolled in, or has completed a

1 state rehabilitation plan or is a service-connected disabled veteran,  
2 veteran of the Vietnam era, or veteran who is recently separated  
3 from military service.

4 (VI) Immediately preceding the qualified employee's  
5 commencement of employment with the taxpayer, was an  
6 ex-offender. An individual shall be treated as convicted if he or  
7 she was placed on probation by a state court without a finding of  
8 guilt.

9 (VII) Immediately preceding the qualified employee's  
10 commencement of employment with the taxpayer, was a person  
11 eligible for or a recipient of any of the following:

12 (aa) Federal Supplemental Security Income benefits.

13 (bb) Aid to Families with Dependent Children.

14 (cc) Food stamps.

15 (dd) State and local general assistance.

16 (VIII) Immediately preceding the qualified employee's  
17 commencement of employment with the taxpayer, was a member  
18 of a federally recognized Indian tribe, band, or other group of  
19 Native American descent.

20 (IX) Immediately preceding the qualified employee's  
21 commencement of employment with the taxpayer, was a resident  
22 of a targeted employment area (as defined in Section 7072 of the  
23 Government Code).

24 (X) An employee who qualified the taxpayer for the enterprise  
25 zone hiring credit under former Section 23622 or the program area  
26 hiring credit under former Section 23623.

27 (XI) Immediately preceding the qualified employee's  
28 commencement of employment with the taxpayer, was a member  
29 of a targeted group, as defined in Section 51(d) of the Internal  
30 Revenue Code, or its successor.

31 (B) Priority for employment shall be provided to an individual  
32 who is enrolled in a qualified program under the federal Job  
33 Training Partnership Act or the Greater Avenues for Independence  
34 Act of 1985 or who is eligible as a member of a targeted group  
35 under the Work Opportunity Tax Credit (Section 51 of the Internal  
36 Revenue Code), or its successor.

37 (5) "Taxpayer" means a corporation engaged in a trade or  
38 business within an enterprise zone designated pursuant to Chapter  
39 12.8 (commencing with Section 7070) of Division 7 of Title 1 of  
40 the Government Code.

1 (6) “Seasonal employment” means employment by a taxpayer  
2 that has regular and predictable substantial reductions in trade or  
3 business operations.

4 (c) The taxpayer shall do both of the following:

5 (1) Obtain from the Employment Development Department, as  
6 permitted by federal law, the local county or city Job Training  
7 Partnership Act administrative entity, the local county GAIN office  
8 or social services agency, or the local government administering  
9 the enterprise zone, a certification that provides that a qualified  
10 employee meets the eligibility requirements specified in clause  
11 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The  
12 Employment Development Department may provide preliminary  
13 screening and referral to a certifying agency. The Employment  
14 Development Department shall develop a form for this purpose.  
15 The Department of Housing and Community Development shall  
16 develop regulations governing the issuance of certificates by local  
17 governments pursuant to subdivision (a) of Section 7086 of the  
18 Government Code.

19 (2) Retain a copy of the certification and provide it upon request  
20 to the Franchise Tax Board.

21 (d) (1) For purposes of this section:

22 (A) All employees of all corporations which are members of  
23 the same controlled group of corporations shall be treated as  
24 employed by a single taxpayer.

25 (B) The credit, if any, allowable by this section to each member  
26 shall be determined by reference to its proportionate share of the  
27 expense of the qualified wages giving rise to the credit, and shall  
28 be allocated in that manner.

29 (C) For purposes of this subdivision, “controlled group of  
30 corporations” means “controlled group of corporations” as defined  
31 in Section 1563(a) of the Internal Revenue Code, except that:

32 (i) “More than 50 percent” shall be substituted for “at least 80  
33 percent” each place it appears in Section 1563(a)(1) of the Internal  
34 Revenue Code.

35 (ii) The determination shall be made without regard to  
36 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal  
37 Revenue Code.

38 (2) If an employer acquires the major portion of a trade or  
39 business of another employer (hereinafter in this paragraph referred  
40 to as the “predecessor”) or the major portion of a separate unit of

1 a trade or business of a predecessor, then, for purposes of applying  
2 this section (other than subdivision (e)) for any calendar year  
3 ending after that acquisition, the employment relationship between  
4 a qualified employee and an employer shall not be treated as  
5 terminated if the employee continues to be employed in that trade  
6 or business.

7 (e) (1) (A) If the employment, other than seasonal employment,  
8 of any qualified employee with respect to whom qualified wages  
9 are taken into account under subdivision (a) is terminated by the  
10 taxpayer at any time during the first 270 days of that employment,  
11 whether or not consecutive, or before the close of the 270th  
12 calendar day after the day in which that employee completes 90  
13 days of employment with the taxpayer, the tax imposed by this  
14 part for the taxable year in which that employment is terminated  
15 shall be increased by an amount equal to the credit allowed under  
16 subdivision (a) for that taxable year and all prior taxable years  
17 attributable to qualified wages paid or incurred with respect to that  
18 employee.

19 (B) If the seasonal employment of any qualified employee, with  
20 respect to whom qualified wages are taken into account under  
21 subdivision (a) is not continued by the taxpayer for a period of  
22 270 days of employment during the 60-month period beginning  
23 with the day the qualified employee commences seasonal  
24 employment with the taxpayer, the tax imposed by this part, for  
25 the taxable year that includes the 60th month following the month  
26 in which the qualified employee commences seasonal employment  
27 with the taxpayer, shall be increased by an amount equal to the  
28 credit allowed under subdivision (a) for that taxable year and all  
29 prior taxable years attributable to qualified wages paid or incurred  
30 with respect to that qualified employee.

31 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
32 any of the following:

33 (i) A termination of employment of a qualified employee who  
34 voluntarily leaves the employment of the taxpayer.

35 (ii) A termination of employment of a qualified employee who,  
36 before the close of the period referred to in subparagraph (A) of  
37 paragraph (1), becomes disabled and unable to perform the services  
38 of that employment, unless that disability is removed before the  
39 close of that period and the taxpayer fails to offer reemployment  
40 to that employee.

1 (iii) A termination of employment of a qualified employee, if  
2 it is determined that the termination was due to the misconduct (as  
3 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
4 the California Code of Regulations) of that employee.

5 (iv) A termination of employment of a qualified employee due  
6 to a substantial reduction in the trade or business operations of the  
7 taxpayer.

8 (v) A termination of employment of a qualified employee, if  
9 that employee is replaced by other qualified employees so as to  
10 create a net increase in both the number of employees and the  
11 hours of employment.

12 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
13 of the following:

14 (i) A failure to continue the seasonal employment of a qualified  
15 employee who voluntarily fails to return to the seasonal  
16 employment of the taxpayer.

17 (ii) A failure to continue the seasonal employment of a qualified  
18 employee who, before the close of the period referred to in  
19 subparagraph (B) of paragraph (1), becomes disabled and unable  
20 to perform the services of that seasonal employment, unless that  
21 disability is removed before the close of that period and the  
22 taxpayer fails to offer seasonal employment to that qualified  
23 employee.

24 (iii) A failure to continue the seasonal employment of a qualified  
25 employee, if it is determined that the failure to continue the  
26 seasonal employment was due to the misconduct (as defined in  
27 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California  
28 Code of Regulations) of that qualified employee.

29 (iv) A failure to continue seasonal employment of a qualified  
30 employee due to a substantial reduction in the regular seasonal  
31 trade or business operations of the taxpayer.

32 (v) A failure to continue the seasonal employment of a qualified  
33 employee, if that qualified employee is replaced by other qualified  
34 employees so as to create a net increase in both the number of  
35 seasonal employees and the hours of seasonal employment.

36 (C) For purposes of paragraph (1), the employment relationship  
37 between the taxpayer and a qualified employee shall not be treated  
38 as terminated by either of the following:

1 (i) By a transaction to which Section 381(a) of the Internal  
2 Revenue Code applies, if the qualified employee continues to be  
3 employed by the acquiring corporation.

4 (ii) By reason of a mere change in the form of conducting the  
5 trade or business of the taxpayer, if the qualified employee  
6 continues to be employed in that trade or business and the taxpayer  
7 retains a substantial interest in that trade or business.

8 (3) Any increase in tax under paragraph (1) shall not be treated  
9 as tax imposed by this part for purposes of determining the amount  
10 of any credit allowable under this part.

11 (f) Rules similar to the rules provided in Section 46(e) and (h)  
12 of the Internal Revenue Code shall apply to both of the following:

13 (1) An organization to which Section 593 of the Internal  
14 Revenue Code applies.

15 (2) A regulated investment company or a real estate investment  
16 trust subject to taxation under this part.

17 (g) For purposes of this section, “enterprise zone” means an  
18 area designated as an enterprise zone pursuant to Chapter 12.8  
19 (commencing with Section 7070) of Division 7 of Title 1 of the  
20 Government Code.

21 (h) The credit allowable under this section shall be reduced by  
22 the credit allowed under Sections 23623.5, 23625, and 23646  
23 claimed for the same employee. The credit shall also be reduced  
24 by the federal credit allowed under Section 51 of the Internal  
25 Revenue Code.

26 In addition, any deduction otherwise allowed under this part for  
27 the wages or salaries paid or incurred by the taxpayer upon which  
28 the credit is based shall be reduced by the amount of the credit,  
29 prior to any reduction required by subdivision (i) or (j).

30 (i) In the case where the credit otherwise allowed under this  
31 section exceeds the “tax” for the taxable year, that portion of the  
32 credit that exceeds the “tax” may be carried over and added to the  
33 credit, if any, in succeeding taxable years, until the credit is  
34 exhausted. The credit shall be applied first to the earliest taxable  
35 years possible.

36 (j) (1) The amount of the credit otherwise allowed under this  
37 section and Section 23612.2, including any credit carryover from  
38 prior years, that may reduce the “tax” for the taxable year shall  
39 not exceed the amount of tax which would be imposed on the  
40 taxpayer’s business income attributable to the enterprise zone

1 determined as if that attributable income represented all of the  
2 income of the taxpayer subject to tax under this part.

3 (2) Attributable income shall be that portion of the taxpayer's  
4 California source business income that is apportioned to the  
5 enterprise zone. For that purpose, the taxpayer's business  
6 attributable to sources in this state first shall be determined in  
7 accordance with Chapter 17 (commencing with Section 25101).  
8 That business income shall be further apportioned to the enterprise  
9 zone in accordance with Article 2 (commencing with Section  
10 25120) of Chapter 17, modified for purposes of this section in  
11 accordance with paragraph (3).

12 (3) Business income shall be apportioned to the enterprise zone  
13 by multiplying the total California business income of the taxpayer  
14 by a fraction, the numerator of which is the property factor plus  
15 the payroll factor, and the denominator of which is two. For  
16 purposes of this paragraph:

17 (A) The property factor is a fraction, the numerator of which is  
18 the average value of the taxpayer's real and tangible personal  
19 property owned or rented and used in the enterprise zone during  
20 the income year, and the denominator of which is the average value  
21 of all the taxpayer's real and tangible personal property owned or  
22 rented and used in this state during the income year.

23 (B) The payroll factor is a fraction, the numerator of which is  
24 the total amount paid by the taxpayer in the enterprise zone during  
25 the income year for compensation, and the denominator of which  
26 is the total compensation paid by the taxpayer in this state during  
27 the income year.

28 (4) The portion of any credit remaining, if any, after application  
29 of this subdivision, shall be carried over to succeeding taxable  
30 years, as if it were an amount exceeding the "tax" for the taxable  
31 year, as provided in subdivision (i).

32 (k) The changes made to this section by the act adding this  
33 subdivision shall apply to taxable years on or after January 1, 1997.

34 (l) (1) The credit authorized by this section shall not be allowed  
35 for taxable years beginning on or after January 1, 2008.

36 (2) On or after January 1, 2008, taxpayers that would otherwise  
37 be eligible to claim a credit authorized by this section may claim  
38 a credit for these expenses under Section 23622.9.

39 (3) Notwithstanding this subdivision, the provisions of  
40 subdivision (f) of Section 23036 shall apply with respect to any



1 remaining carryover of the credit previously authorized by this  
2 section.

3 SEC. 7. Section 23622.8 of the Revenue and Taxation Code  
4 is amended to read:

5 23622.8. (a) For each taxable year beginning on or after  
6 January 1, 1998, there shall be allowed a credit against the "tax"  
7 (as defined in Section 23036) to a qualified taxpayer for hiring a  
8 qualified disadvantaged individual during the taxable year for  
9 employment in the manufacturing enhancement area. The credit  
10 shall be equal to the sum of each of the following:

11 (1) Fifty percent of the qualified wages in the first year of  
12 employment.

13 (2) Forty percent of the qualified wages in the second year of  
14 employment.

15 (3) Thirty percent of the qualified wages in the third year of  
16 employment.

17 (4) Twenty percent of the qualified wages in the fourth year of  
18 employment.

19 (5) Ten percent of the qualified wages in the fifth year of  
20 employment.

21 (b) For purposes of this section:

22 (1) "Qualified wages" means the following:

23 (A) That portion of wages paid or incurred by the qualified  
24 taxpayer during the taxable year to qualified disadvantaged  
25 individuals that does not exceed 150 percent of the minimum wage.

26 (B) The total amount of qualified wages which may be taken  
27 into account for purposes of claiming the credit allowed under this  
28 section shall not exceed two million dollars (\$2,000,000) per  
29 taxable year.

30 (C) Wages received during the 60-month period beginning with  
31 the first day the qualified disadvantaged individual commences  
32 employment with the qualified taxpayer. Reemployment in  
33 connection with any increase, including a regularly occurring  
34 seasonal increase, in the trade or business operations of the  
35 qualified taxpayer does not constitute commencement of  
36 employment for purposes of this section.

37 (D) Qualified wages do not include any wages paid or incurred  
38 by the qualified taxpayer on or after the manufacturing  
39 enhancement area expiration date. However, wages paid or incurred  
40 with respect to qualified employees who are employed by the

1 qualified taxpayer within the manufacturing enhancement area  
2 within the 60-month period prior to the manufacturing enhancement  
3 area expiration date shall continue to qualify for the credit under  
4 this section after the manufacturing enhancement area expiration  
5 date, in accordance with all provisions of this section applied as  
6 if the manufacturing enhancement area designation were still in  
7 existence and binding.

8 (2) “Minimum wage” means the wage established by the  
9 Industrial Welfare Commission as provided for in Chapter 1  
10 (commencing with Section 1171) of Part 4 of Division 2 of the  
11 Labor Code.

12 (3) “Manufacturing enhancement area” means an area designated  
13 pursuant to Section 7073.8 of the Government Code according to  
14 the procedures of Chapter 12.8 (commencing with Section 7070)  
15 of Division 7 of Title 1 of the Government Code.

16 (4) “Manufacturing enhancement area expiration date” means  
17 the date the manufacturing enhancement area designation expires,  
18 is no longer binding, or becomes inoperative.

19 (5) “Qualified disadvantaged individual” means an individual  
20 who satisfies all of the following requirements:

21 (A) (i) At least 90 percent of whose services for the qualified  
22 taxpayer during the taxable year are directly related to the conduct  
23 of the qualified taxpayer’s trade or business located in a  
24 manufacturing enhancement area.

25 (ii) Who performs at least 50 percent of his or her services for  
26 the qualified taxpayer during the taxable year in the manufacturing  
27 enhancement area.

28 (B) Who is hired by the qualified taxpayer after the designation  
29 of the area as a manufacturing enhancement area in which the  
30 individual’s services were primarily performed.

31 (C) Who is any of the following immediately preceding the  
32 individual’s commencement of employment with the qualified  
33 taxpayer:

34 (i) An individual who has been determined eligible for services  
35 under the federal Job Training Partnership Act (29 U.S.C. Sec.  
36 1501 et seq.) or its successor.

37 (ii) Any voluntary or mandatory registrant under the Greater  
38 Avenues for Independence Act of 1985, or its successor, as  
39 provided pursuant to Article 3.2 (commencing with Section 11320)

1 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
2 Code.

3 (iii) Any individual who has been certified eligible by the  
4 Employment Development Department under the federal Targeted  
5 Jobs Tax Credit Program, or its successor, whether or not this  
6 program is in effect.

7 (6) "Qualified taxpayer" means any corporation engaged in a  
8 trade or business within a manufacturing enhancement area  
9 designated pursuant to Section 7073.8 of the Government Code  
10 and that meets all of the following requirements:

11 (A) Is engaged in those lines of business described in Codes  
12 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,  
13 inclusive, of the Standard Industrial Classification (SIC) Manual  
14 published by the United States Office of Management and Budget,  
15 1987 edition.

16 (B) At least 50 percent of the qualified taxpayer's workforce  
17 hired after the designation of the manufacturing enhancement area  
18 is composed of individuals who, at the time of hire, are residents  
19 of the county in which the manufacturing enhancement area is  
20 located.

21 (C) Of this percentage of local hires, at least 30 percent shall  
22 be qualified disadvantaged individuals.

23 (7) "Seasonal employment" means employment by a qualified  
24 taxpayer that has regular and predictable substantial reductions in  
25 trade or business operations.

26 (c) (1) For purposes of this section, all of the following apply:

27 (A) All employees of all corporations that are members of the  
28 same controlled group of corporations shall be treated as employed  
29 by a single qualified taxpayer.

30 (B) The credit (if any) allowable by this section with respect to  
31 each member shall be determined by reference to its proportionate  
32 share of the expenses of the qualified wages giving rise to the  
33 credit and shall be allocated in that manner.

34 (C) Principles that apply in the case of controlled groups of  
35 corporations, as specified in subdivision (d) of Section 23622.7,  
36 shall apply with respect to determining employment.

37 (2) If a qualified taxpayer acquires the major portion of a trade  
38 or business of another employer (hereinafter in this paragraph  
39 referred to as the "predecessor") or the major portion of a separate  
40 unit of a trade or business of a predecessor, then, for purposes of

1 applying this section (other than subdivision (d)) for any calendar  
2 year ending after that acquisition, the employment relationship  
3 between a qualified disadvantaged individual and a qualified  
4 taxpayer shall not be treated as terminated if the qualified  
5 disadvantaged individual continues to be employed in that trade  
6 or business.

7 (d) (1) (A) If the employment, other than seasonal employment,  
8 of any qualified disadvantaged individual, with respect to whom  
9 qualified wages are taken into account under subdivision (b) is  
10 terminated by the qualified taxpayer at any time during the first  
11 270 days of that employment (whether or not consecutive) or before  
12 the close of the 270th calendar day after the day in which that  
13 qualified disadvantaged individual completes 90 days of  
14 employment with the qualified taxpayer, the tax imposed by this  
15 part for the taxable year in which that employment is terminated  
16 shall be increased by an amount equal to the credit allowed under  
17 subdivision (a) for that taxable year and all prior taxable years  
18 attributable to qualified wages paid or incurred with respect to that  
19 qualified disadvantaged individual.

20 (B) If the seasonal employment of any qualified disadvantaged  
21 individual, with respect to whom qualified wages are taken into  
22 account under subdivision (a) is not continued by the qualified  
23 taxpayer for a period of 270 days of employment during the  
24 60-month period beginning with the day the qualified  
25 disadvantaged individual commences seasonal employment with  
26 the qualified taxpayer, the tax imposed by this part, for the income  
27 year that includes the 60th month following the month in which  
28 the qualified disadvantaged individual commences seasonal  
29 employment with the qualified taxpayer, shall be increased by an  
30 amount equal to the credit allowed under subdivision (a) for that  
31 taxable year and all prior taxable years attributable to qualified  
32 wages paid or incurred with respect to that qualified disadvantaged  
33 individual.

34 (2) (A) Subparagraph (A) of paragraph (1) does not apply to  
35 any of the following:

36 (i) A termination of employment of a qualified disadvantaged  
37 individual who voluntarily leaves the employment of the qualified  
38 taxpayer.

39 (ii) A termination of employment of a qualified disadvantaged  
40 individual who, before the close of the period referred to in

1 subparagraph (A) of paragraph (1), becomes disabled to perform  
2 the services of that employment, unless that disability is removed  
3 before the close of that period and the qualified taxpayer fails to  
4 offer reemployment to that individual.

5 (iii) A termination of employment of a qualified disadvantaged  
6 individual, if it is determined that the termination was due to the  
7 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,  
8 of Title 22 of the California Code of Regulations) of that individual.

9 (iv) A termination of employment of a qualified disadvantaged  
10 individual due to a substantial reduction in the trade or business  
11 operations of the qualified taxpayer.

12 (v) A termination of employment of a qualified disadvantaged  
13 individual, if that individual is replaced by other qualified  
14 disadvantaged individuals so as to create a net increase in both the  
15 number of employees and the hours of employment.

16 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
17 of the following:

18 (i) A failure to continue the seasonal employment of a qualified  
19 disadvantaged individual who voluntarily fails to return to the  
20 seasonal employment of the qualified taxpayer.

21 (ii) A failure to continue the seasonal employment of a qualified  
22 disadvantaged individual who, before the close of the period  
23 referred to in subparagraph (B) of paragraph (1), becomes disabled  
24 and unable to perform the services of that seasonal employment,  
25 unless that disability is removed before the close of that period  
26 and the qualified taxpayer fails to offer seasonal employment to  
27 that qualified disadvantaged individual.

28 (iii) A failure to continue the seasonal employment of a qualified  
29 disadvantaged individual, if it is determined that the failure to  
30 continue the seasonal employment was due to the misconduct (as  
31 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
32 the California Code of Regulations) of that qualified disadvantaged  
33 individual.

34 (iv) A failure to continue seasonal employment of a qualified  
35 disadvantaged individual due to a substantial reduction in the  
36 regular seasonal trade or business operations of the qualified  
37 taxpayer.

38 (v) A failure to continue the seasonal employment of a qualified  
39 disadvantaged individual, if that qualified disadvantaged individual  
40 is replaced by other qualified disadvantaged individuals so as to

1 create a net increase in both the number of seasonal employees  
2 and the hours of seasonal employment.

3 (C) For purposes of paragraph (1), the employment relationship  
4 between the qualified taxpayer and a qualified disadvantaged  
5 individual shall not be treated as terminated by either of the  
6 following:

7 (i) By a transaction to which Section 381(a) of the Internal  
8 Revenue Code applies, if the qualified disadvantaged individual  
9 continues to be employed by the acquiring corporation.

10 (ii) By reason of a mere change in the form of conducting the  
11 trade or business of the qualified taxpayer, if the qualified  
12 disadvantaged individual continues to be employed in that trade  
13 or business and the qualified taxpayer retains a substantial interest  
14 in that trade or business.

15 (3) Any increase in tax under paragraph (1) shall not be treated  
16 as tax imposed by this part for purposes of determining the amount  
17 of any credit allowable under this part.

18 (e) The credit shall be reduced by the credit allowed under  
19 Section 23621. The credit shall also be reduced by the federal  
20 credit allowed under Section 51 of the Internal Revenue Code.

21 In addition, any deduction otherwise allowed under this part for  
22 the wages or salaries paid or incurred by the qualified taxpayer  
23 upon which the credit is based shall be reduced by the amount of  
24 the credit, prior to any reduction required by subdivision (f) or (g).

25 (f) In the case where the credit otherwise allowed under this  
26 section exceeds the “tax” for the taxable year, that portion of the  
27 credit that exceeds the “tax” may be carried over and added to the  
28 credit, if any, in succeeding years, until the credit is exhausted.  
29 The credit shall be applied first to the earliest taxable years  
30 possible.

31 (g) (1) The amount of credit otherwise allowed under this  
32 section, including prior year credit carryovers, that may reduce  
33 the “tax” for the taxable year shall not exceed the amount of tax  
34 that would be imposed on the qualified taxpayer’s business income  
35 attributed to a manufacturing enhancement area determined as if  
36 that attributed income represented all of the net income of the  
37 qualified taxpayer subject to tax under this part.

38 (2) Attributable income is that portion of the taxpayer’s  
39 California source business income that is apportioned to the  
40 manufacturing enhancement area. For that purpose, the taxpayer’s

1 business income attributable to sources in this state first shall be  
2 determined in accordance with Chapter 17 (commencing with  
3 Section 25101). That business income shall be further apportioned  
4 to the manufacturing enhancement area in accordance with Article  
5 2 (commencing with Section 25120) of Chapter 17, modified for  
6 purposes of this section in accordance with paragraph (3).

7 (3) Income shall be apportioned to a manufacturing enhancement  
8 area by multiplying the total California business income of the  
9 taxpayer by a fraction, the numerator of which is the property  
10 factor plus the payroll factor, and the denominator of which is two.  
11 For the purposes of this paragraph:

12 (A) The property factor is a fraction, the numerator of which is  
13 the average value of the taxpayer's real and tangible personal  
14 property owned or rented and used in the manufacturing  
15 enhancement area during the taxable year, and the denominator  
16 of which is the average value of all the taxpayer's real and tangible  
17 personal property owned or rented and used in this state during  
18 the taxable year.

19 (B) The payroll factor is a fraction, the numerator of which is  
20 the total amount paid by the taxpayer in the manufacturing  
21 enhancement area during the taxable year for compensation, and  
22 the denominator of which is the total compensation paid by the  
23 taxpayer in this state during the taxable year.

24 (4) The portion of any credit remaining, if any, after application  
25 of this subdivision, shall be carried over to succeeding taxable  
26 years, as if it were an amount exceeding the "tax" for the taxable  
27 year, as provided in subdivision (g).

28 (h) If the taxpayer is allowed a credit pursuant to this section  
29 for qualified wages paid or incurred, only one credit shall be  
30 allowed to the taxpayer under this part with respect to any wage  
31 consisting in whole or in part of those qualified wages.

32 (i) The qualified taxpayer shall do both of the following:

33 (1) Obtain from the Employment Development Department, as  
34 permitted by federal law, the local county or city Job Training  
35 Partnership Act administrative entity, the local county GAIN office  
36 or social services agency, or the local government administering  
37 the manufacturing enhancement area, a certification that provides  
38 that a qualified disadvantaged individual meets the eligibility  
39 requirements specified in paragraph (5) of subdivision (b). The  
40 Employment Development Department may provide preliminary

1 screening and referral to a certifying agency. The Department of  
2 Housing and Community Development shall develop regulations  
3 governing the issuance of certificates pursuant to subdivision (d)  
4 of Section 7086 of the Government Code and shall develop forms  
5 for this purpose.

6 (2) Retain a copy of the certification and provide it upon request  
7 to the Franchise Tax Board.

8 (j) (1) The credit authorized by this section shall not be allowed  
9 for taxable years beginning on or after January 1, 2008.

10 (2) On or after January 1, 2008, taxpayers that would otherwise  
11 be eligible to claim a credit authorized by this section may claim  
12 a credit for these expenses under Section 23622.9.

13 (3) Notwithstanding this subdivision, the provisions of  
14 subdivision (f) of Section 23036 shall apply with respect to any  
15 remaining carryover of the credit previously authorized by this  
16 section.

17 SEC. 8. Section 23622.9 is added to the Revenue and Taxation  
18 Code, to read:

19 23622.9. (a) For each taxable year beginning on or after  
20 January 1, 2008, there shall be allowed a credit against the "tax,"  
21 as defined in Section 23036, to a ~~taxpayer~~ *qualified taxpayer* who  
22 employs a qualified employee in a geographically targeted  
23 economic development area during the taxable year. ~~The amount~~  
24 ~~of credit shall be equal to 30 percent of the amount of all qualified~~  
25 ~~wages paid to a qualified employee during each year of his or her~~  
26 ~~employment with the taxpayer, not to exceed five full calendar~~  
27 ~~years of employment per each qualified employee. The credit shall~~  
28 ~~be equal to the sum of each of the following:~~

29 (1) *Fifty percent of the qualified wages in the first year of*  
30 *employment.*

31 (2) *Forty percent of the qualified wages in the second year of*  
32 *employment.*

33 (3) *Thirty percent of the qualified wages in the third year of*  
34 *employment.*

35 (4) *Twenty percent of the qualified wages in the fourth year of*  
36 *employment.*

37 (5) *Ten percent of the qualified wages in the fifth year of*  
38 *employment.*

39 (b) For purposes of this section, all of the following definitions  
40 apply:



1 (1) “Geographically targeted economic development area”  
2 means any of the following:

3 (A) An enterprise zone designated as an enterprise zone pursuant  
4 to Chapter 12.8 (commencing with Section 7070) of Division 7 of  
5 Title 1 of the Government Code.

6 (B) A local agency military base recovery area designated as a  
7 local agency military base recovery area pursuant to Chapter 12.97  
8 (commencing with Section 7105).

9 (C) A targeted tax area designated as a targeted tax area pursuant  
10 to Chapter 12.93 (commencing with Section 7097).

11 (D) A manufacturing enhancement area designated as a  
12 manufacturing enhancement area pursuant to Chapter 12.8  
13 (commencing with Section 7073.8).

14 (2) “Geographically targeted economic development area  
15 expiration date” means the date the geographically targeted  
16 economic development area designation expires, is no longer  
17 binding, or becomes inoperative.

18 (3) “Minimum wage” means the wage established by the  
19 Industrial Welfare Commission as provided for in Chapter 1  
20 (commencing with Section 1171) of Part 4 of Division 2 of the  
21 Labor Code.

22 (4) (A) “Qualified employee” means an individual who meets  
23 all of the following requirements:

24 (i) At least 90 percent of whose services for the ~~taxpayer~~  
25 *qualified taxpayer* during the taxable year are directly related to  
26 the conduct of the ~~taxpayer’s~~ *qualified taxpayer’s* trade or business  
27 located in a geographically targeted economic development area.

28 (ii) Performs at least 50 percent of his or her services for the  
29 ~~taxpayer~~ *qualified taxpayer* during the taxable year in a  
30 geographically targeted economic development area.

31 (iii) Is initially hired by the ~~taxpayer~~ *qualified taxpayer* after  
32 the date of original designation of the area in which services were  
33 performed as a geographically targeted economic development  
34 area.

35 (iv) Is any of the following, as documented by the  
36 geographically targeted economic development area coordinator:

37 (I) ~~Immediately preceding the qualified employee’s~~  
38 ~~commencement of employment with the taxpayer, was a person~~  
39 ~~enrolled and documented in the California Job Training Automation~~  
40 ~~System by an authorized WIA representative under the federal~~

1 ~~Workforce Investment Act (29 U.S.C. Sec. 720 et seq.), or its~~  
2 ~~successor.~~

3 ~~(II) Immediately preceding the qualified employee's~~  
4 ~~commencement of employment with the taxpayer, was a person~~  
5 ~~receiving benefits under the California Work Opportunity and~~  
6 ~~Responsibility to Kids program pursuant to Article 3.2~~  
7 ~~(commencing with Section 11200) of Chapter 2 of Part 3 of~~  
8 ~~Division 9 of the Welfare and Institutions Code, or its successor.~~

9 *(I) Immediately preceding the qualified employee's*  
10 *commencement of employment with the qualified taxpayer, was a*  
11 *person eligible for services under the federal Job Training*  
12 *Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,*  
13 *who is receiving, or is eligible to receive, subsidized employment,*  
14 *training, or services funded by the federal Job Training Partnership*  
15 *Act, or its successor.*

16 *(II) Immediately preceding the qualified employee's*  
17 *commencement of employment with the qualified taxpayer, was a*  
18 *person eligible to be a voluntary or mandatory registrant under*  
19 *the Greater Avenues for Independence Act of 1985 (GAIN)*  
20 *program provided for pursuant to Article 3.2 (commencing with*  
21 *Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare*  
22 *and Institutions Code, or its successor.*

23 *(III) Immediately preceding the qualified employee's*  
24 *commencement of employment with the taxpayer qualified*  
25 *taxpayer, was an economically disadvantaged individual—14 16*  
26 *years of age or older. For purposes of this section, “economically*  
27 *disadvantaged individual” means an individual who meets the*  
28 *definition of that term under the Workforce Investment Act, or its*  
29 *successor.*

30 *(IV) Immediately preceding the qualified employee's*  
31 *commencement of employment with the taxpayer qualified*  
32 *taxpayer, was a dislocated worker. For purposes of this section, a*  
33 *“dislocated worker” means an individual who meets the definition*  
34 *of that term under the Workforce Investment Act, or its successor.*  
35 *worker who meets any of the following requirements:*

36 *(aa) Has been terminated or laid off or who has received a*  
37 *notice of termination or layoff from employment, is eligible for or*  
38 *has exhausted entitlement to unemployment insurance benefits,*  
39 *and is unlikely to return to his or her previous industry or*  
40 *occupation.*

1     (bb) *Has been terminated or has received a notice of termination*  
2     *of employment as a result of any permanent closure or any*  
3     *substantial layoff at a plant, facility, or enterprise, including an*  
4     *individual who has not received written notification but whose*  
5     *employer has made a public announcement of the closure or layoff.*

6     (cc) *Is long-term unemployed and has limited opportunities for*  
7     *employment or reemployment in the same or a similar occupation*  
8     *in the area in which the individual resides, including an individual*  
9     *55 years of age or older who may have substantial barriers to*  
10    *employment by reason of age.*

11    (dd) *Was self-employed (including farmers and ranchers) and*  
12    *is unemployed as a result of general economic conditions in the*  
13    *community in which he or she resides or because of natural*  
14    *disasters.*

15    (ee) *Was a civilian employee of the Department of Defense*  
16    *employed at a military installation being closed or realigned under*  
17    *the Defense Base Closure and Realignment Act of 1990.*

18    (ff) *Was an active member of the Armed Forces or National*  
19    *Guard as of September 30, 1990, and was either involuntarily*  
20    *separated or separated pursuant to a special benefits program.*

21    (gg) *Is a seasonal or migrant worker who experiences chronic*  
22    *seasonal unemployment and underemployment in the agriculture*  
23    *industry, aggravated by continual advancements in technology*  
24    *and mechanization.*

25    (hh) *Has been terminated or laid off, or has received a notice*  
26    *of termination or layoff, as a consequence of compliance with the*  
27    *Clean Air Act.*

28    (V) Immediately preceding the qualified employee's  
29    commencement of employment with the ~~taxpayer~~ *qualified*  
30    *taxpayer*, was a disabled individual who is eligible for or enrolled  
31    in, or has completed a state rehabilitation plan.

32    (VI) Is an individual who was discharged or released from  
33    service under conditions other than dishonorable, and is either of  
34    the following:

35    (aa) A service-connected disabled veteran.

36    (bb) An individual who was discharged or released in the last  
37    48 months from active military, naval, or an air service.

38    (cc) *An individual who served in the active military, naval, or*  
39    *air service of the United States between February 28, 1961, and*  
40    *May 8, 1975.*

1 *(dd) An individual who was discharged or released in the last*  
2 *48 months from active service in the National Guard if the*  
3 *individual served on foreign soil prior to discharge.*

4 ~~(VII) Has a prior felony conviction. An individual shall be~~  
5 ~~treated as convicted if he or she was placed on probation by a state~~  
6 ~~court without a finding of guilt.~~

7 *(VII) Is an individual who has convicted of a felony or a*  
8 *misdemeanor offense punishable by incarceration, or a person*  
9 *charged with a felony offense or a misdemeanor offense punishable*  
10 *by incarceration but placed on probation by a state court without*  
11 *a finding of guilt.*

12 *(VIII) Is an individual who is a former member of a criminal*  
13 *street gang, certified as such by a federal, state, or local law*  
14 *enforcement agency.*

15 ~~(VIII)~~

16 *(IX) Immediately preceding the qualified employee's*  
17 *commencement of employment with the taxpayer qualified*  
18 *taxpayer, was a person receiving eligible for, or a recipient of, any*  
19 *of the following:*

20 *(aa) Federal Supplemental Security Income benefits.*

21 *(bb) Temporary Assistance for Needy Families.*

22 *(cc) Food stamps.*

23 *(dd) State and local general assistance.*

24 ~~(IX)~~

25 *(X) Immediately preceding the qualified employee's*  
26 *commencement of employment with the taxpayer qualified*  
27 *taxpayer, was a member of a federally recognized Indian tribe,*  
28 *band, or other group of Native American descent.*

29 ~~(X)~~

30 *(XI) Immediately preceding the qualified employee's*  
31 *commencement of employment with the taxpayer qualified*  
32 *taxpayer, was a resident of a targeted employment area, as defined*  
33 *in Section 7072 of the Government Code.*

34 *(XII) Immediately preceding the qualified employee's*  
35 *commencement of employment with the qualified taxpayer located*  
36 *in a targeted tax area, was a resident of that targeted tax area.*

37 ~~(XI)~~

38 *(XIII) Immediately preceding the qualified employee's*  
39 *commencement of employment with the taxpayer qualified*

1 *taxpayer*, was a member of a targeted group, as defined in Section  
2 51(d) of the Internal Revenue Code, or its successor.

3 ~~(XII) Immediately preceding the qualified employee's~~  
4 ~~commencement of employment with the taxpayer, was a "qualified~~  
5 ~~former foster care recipient," which means an individual who is~~  
6 ~~certified by the local designated agency to have met both the~~  
7 ~~following:~~

8 ~~(aa) Having attained age 17 but not age 25 on the hiring date.~~

9 ~~(bb) Having, before attaining the age of 18, been either a~~  
10 ~~recipient of foster care maintenance payments under a state plan~~  
11 ~~approved under Part E of Title IV of the Social Security Act (42~~  
12 ~~U.S.C. Sec. 301), or in foster care under the responsibility of a~~  
13 ~~state.~~

14 (B) (i) Priority for employment shall be provided to any of the  
15 following individuals:

16 (I) An individual who is enrolled in a qualified program under  
17 the federal Workforce Investment Act, or its successor.

18 (II) An individual who is enrolled in the California Work  
19 Opportunity and Responsibility to Kids Program, or its successor.

20 (III) An individual who is eligible as a member of a targeted  
21 group under the Work Opportunity Tax Credit (Section 51 of the  
22 Internal Revenue Code), or its successor.

23 (ii) On or before December 15 of each calendar year, the  
24 Employment Development Department shall report to the  
25 Legislature regarding the following information:

26 (I) Types of training and services that the department provided,  
27 in the previous fiscal year, to the individuals enrolled and  
28 documented in the California Job Training Automation System  
29 and in the California Work Opportunity and Responsibility to Kids  
30 Program.

31 (II) Number of individuals enrolled in the California Job  
32 Training Automation System and in the California Work  
33 Opportunity and Responsibility to Kids Program who, in the  
34 previous fiscal year, were referred by the Employment  
35 Development Department to the geographically targeted economic  
36 development area programs for employment.

37 (5) "Qualified wages" means the following:

38 (A) (i) Except as provided in clause (ii), that portion of wages  
39 paid or incurred by the ~~taxpayer~~ *qualified taxpayer* during the

1 taxable year to qualified employees that does not exceed 150  
2 percent of the minimum wage.

3 (ii) For up to 1,350 qualified employees who are employed by  
4 the ~~taxpayer~~ *qualified taxpayer* in the Long Beach Enterprise Zone  
5 in aircraft manufacturing activities described in Codes 3721 to  
6 3728, inclusive, and Code 3812 of the Standard Industrial  
7 Classification (SIC) Manual published by the United States Office  
8 of Management and Budget, 1987 edition, “qualified wages” means  
9 *manufacturing activities described as industrial activities in the*  
10 *North American Industry Classification System Manual, published*  
11 *by the United States Office of Management and Budget, “qualified*  
12 *wages” means* that portion of hourly wages that does not exceed  
13 202 percent of the minimum wage. *The Employment Development*  
14 *Department shall determine which classifications apply and*  
15 *annually publish those classifications on the Employment*  
16 *Development Department’s Web site.*

17 (B) Wages received during the 60-month period beginning with  
18 the first day the employee commences employment with the  
19 ~~taxpayer~~ *qualified taxpayer*. Reemployment in connection with  
20 any increase, including a regularly occurring seasonal increase, in  
21 the trade or business operations of the ~~taxpayer~~ *qualified taxpayer*  
22 does not constitute commencement of employment for purposes  
23 of this section.

24 (C) Qualified wages do not include any wages paid or incurred  
25 by the ~~taxpayer~~ *qualified taxpayer* on or after the expiration date  
26 of the geographically targeted economic development area.  
27 However, wages paid or incurred with respect to qualified  
28 employees who are employed by the ~~taxpayer~~ *qualified taxpayer*  
29 within the geographically targeted economic development area  
30 within the 60-month period prior to the zone expiration date shall  
31 continue to qualify for the credit under this section after the  
32 expiration date of the geographically targeted economic  
33 development area, in accordance with all provisions of this section  
34 applied as if the geographically targeted economic development  
35 area designation were still in existence and binding.

36 (6) “Seasonal employment” means employment by a ~~taxpayer~~  
37 *qualified taxpayer* that has regular and predictable substantial  
38 reductions in trade or business operations.

1     ~~(7) “Taxpayer” means a person or entity engaged in a trade or~~  
2 ~~business within a geographically targeted economic development~~  
3 ~~area.~~

4     (7) “*Qualified taxpayer*” means a taxpayer that meets any of  
5 the following requirements:

6     (A) *Is a person or entity engaged in a trade or business within*  
7 *an enterprise zone designated pursuant to Chapter 12.8*  
8 *(commencing with Section 7070) of Division 7 of Title 1 of the*  
9 *Government Code.*

10    (B) *Is a person or entity engaged in a trade or business within*  
11 *a local agency military base recovery area designated pursuant*  
12 *to Chapter 12.97 (commencing with Section 7105) of the*  
13 *Government Code.*

14    (C) *Is a person or entity that meets both of the following:*

15    (i) *Is engaged in a trade or business within a targeted tax area*  
16 *designated pursuant to Chapter 12.93 (commencing with Section*  
17 *7097) of the Government Code, or is engaged in a trade or business*  
18 *within a manufacturing enhancement area designated pursuant*  
19 *to Chapter 12.8 (commencing with Section 7073.8) of the*  
20 *Government Code.*

21    (ii) *Is engaged in those lines of business described as industrial*  
22 *in the North American Industry Classification System Manual,*  
23 *published by the United States Office of Management and Budget.*  
24 *The Employment Development Department shall determine which*  
25 *classifications apply and annually publish those classifications on*  
26 *the Employment Development Department’s Web site.*

27    (c) ~~The taxpayer~~ *qualified taxpayer* shall do both of the  
28 following:

29    (1) Obtain a certificate from the geographically targeted  
30 economic development area coordinator designated by the local  
31 jurisdiction in which the employee is employed. The Department  
32 of Housing and Community Development shall develop regulations  
33 governing the issuance of certificates by local governments  
34 pursuant to subdivision (a) of Section 7086 of the Government  
35 Code. ~~Applications for this certification shall be submitted to the~~  
36 ~~certifying agency within 24 months of the commencement date of~~  
37 ~~employment with the taxpayer. The certifying agency shall not~~  
38 ~~Code. The certifying agency shall not~~ issue a certification when  
39 the employer or the employer’s agent is the second signatory on  
40 the applicant’s statement for establishing eligibility.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single ~~taxpayer~~ *qualified taxpayer*.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, “controlled group of corporations” means “controlled group of corporations” as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) “More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563 (a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to Sections 1563 (a)(4) and (e)(3)(c) of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section, other than subdivision (e), for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the ~~taxpayer~~ *qualified taxpayer* at any time during the first 270 days of that employment, whether or not consecutive, or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the ~~taxpayer~~ *qualified taxpayer*, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.



(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the ~~taxpayer~~ *qualified taxpayer* for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the ~~taxpayer~~ *qualified taxpayer*, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the ~~taxpayer~~ *qualified taxpayer*, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee. If the employer is located in an area where a state of disaster has been declared, a qualified employee has 360 additional days of nonemployment for purposes of determining his or her status as a “qualified employee,” as defined in this section.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the ~~taxpayer~~ *qualified taxpayer*.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the ~~taxpayer~~ *qualified taxpayer* fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the ~~taxpayer~~ *qualified taxpayer*.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the ~~taxpayer~~ *qualified taxpayer*.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the ~~taxpayer~~ *qualified taxpayer* fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the ~~taxpayer~~ *qualified taxpayer*.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the ~~taxpayer~~ *qualified taxpayer* and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the ~~taxpayer~~ *qualified taxpayer*, if the qualified employee continues to be employed in that trade or business and the ~~taxpayer~~ *qualified taxpayer* retains a substantial interest in the trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) Rules similar to the rules provided in Section 46(e) and (h) of the Internal Revenue Code shall apply to both the following:

1 (1) An organization to which Section 593 of the Internal  
2 Revenue Code applies.

3 (2) A regulated investment company or a real estate investment  
4 trust subject to taxation under this part.

5 (g) (1) The credit allowable under this section shall be reduced  
6 ~~by the credit allowed under Sections 23623.5 and 23625 claimed~~  
7 ~~for the same employee. The credit shall also be reduced by the~~ *by*  
8 *the* federal credit allowed under Section 51 of the Internal Revenue  
9 Code.

10 (2) Any deduction otherwise allowed under this part for the  
11 wages or salaries paid or incurred by the ~~taxpayer~~ *qualified*  
12 *taxpayer* upon which the credit is based shall be reduced by the  
13 amount of the credit, prior to any reduction required by subdivision  
14 (h) or (i).

15 (h) In the case where the credit otherwise allowed under this  
16 section exceeds the “tax” for the taxable year, that portion of the  
17 credit that exceeds the “tax” may be carried over and added to the  
18 credit, if any, in succeeding taxable years, until the credit is  
19 exhausted. The credit shall be applied first to the earliest taxable  
20 years possible.

21 (i) (1) The amount of the credit otherwise allowed under this  
22 section and ~~Section 23612.2~~ *Sections 23612.2, 23633, and 23645,*  
23 including any credit carryover from prior years, that may reduce  
24 the “tax” for the taxable year shall not exceed the amount of tax  
25 which would be imposed on the ~~taxpayer’s~~ *qualified taxpayer’s*  
26 business income attributable to the geographically targeted  
27 economic development area determined as if that attributable  
28 income represented all of the income of the ~~taxpayer~~ *qualified*  
29 *taxpayer* subject to tax under this part.

30 (2) Attributable income shall be that portion of the ~~taxpayer’s~~  
31 *qualified taxpayer’s* California source business income that is  
32 apportioned to the geographically targeted economic development  
33 area. For that purpose, the ~~taxpayer’s~~ *qualified taxpayer’s* business  
34 income attributable to sources in this state first shall be determined  
35 in accordance with Chapter 17 (commencing with Section 25101)  
36 of Part 11. That business income shall be further apportioned to  
37 the geographically targeted economic development area in  
38 accordance with Article 2 (commencing with Section 25120) of  
39 Chapter 17 of Part 11, modified for purposes of this section in  
40 accordance with paragraph (3).

(3) Business income shall be apportioned to the geographically targeted economic development area by multiplying the total California business income of the ~~taxpayer~~ *qualified taxpayer* by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the ~~taxpayer's~~ *qualified taxpayer's* real and tangible personal property owned or rented and used in the geographically targeted economic development area during the taxable year, and the denominator of which is the average value of all the ~~taxpayer's~~ *qualified taxpayer's* real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the ~~taxpayer~~ *qualified taxpayer* in the geographically targeted economic development area during the taxable year for compensation, and the denominator of which is the total compensation paid by the ~~taxpayer~~ *qualified taxpayer* in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h).

*(j) The credit allowed to a qualified taxpayer pursuant to this section shall be known and may be cited as the Enterprise Zone Credit.*

SEC. 9. Section 23634 of the Revenue and Taxation Code is amended to read:

23634. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined by Section 23036) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

1 (4) Twenty percent of qualified wages in the fourth year of  
2 employment.

3 (5) Ten percent of qualified wages in the fifth year of  
4 employment.

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

7 (A) That portion of wages paid or incurred by the qualified  
8 taxpayer during the taxable year to qualified employees that does  
9 not exceed 150 percent of the minimum wage.

10 (B) Wages received during the 60-month period beginning with  
11 the first day the employee commences employment with the  
12 qualified taxpayer. Reemployment in connection with any increase,  
13 including a regularly occurring seasonal increase, in the trade or  
14 business operations of the qualified taxpayer does not constitute  
15 commencement of employment for purposes of this section.

16 (C) Qualified wages do not include any wages paid or incurred  
17 by the qualified taxpayer on or after the targeted tax area expiration  
18 date. However, wages paid or incurred with respect to qualified  
19 employees who are employed by the qualified taxpayer within the  
20 targeted tax area within the 60-month period prior to the targeted  
21 tax area expiration date shall continue to qualify for the credit  
22 under this section after the targeted tax area expiration date, in  
23 accordance with all provisions of this section applied as if the  
24 targeted tax area designation were still in existence and binding.

25 (2) “Minimum wage” means the wage established by the  
26 Industrial Welfare Commission as provided for in Chapter 1  
27 (commencing with Section 1171) of Part 4 of Division 2 of the  
28 Labor Code.

29 (3) “Targeted tax area expiration date” means the date the  
30 targeted tax area designation expires, is revoked, is no longer  
31 binding, or becomes inoperative.

32 (4) (A) “Qualified employee” means an individual who meets  
33 all of the following requirements:

34 (i) At least 90 percent of his or her services for the qualified  
35 taxpayer during the taxable year are directly related to the conduct  
36 of the qualified taxpayer’s trade or business located in a targeted  
37 tax area.

38 (ii) Performs at least 50 percent of his or her services for the  
39 qualified taxpayer during the taxable year in a targeted tax area.

1 (iii) Is hired by the qualified taxpayer after the date of original  
2 designation of the area in which services were performed as a  
3 targeted tax area.

4 (iv) Is any of the following:

5 (I) Immediately preceding the qualified employee's  
6 commencement of employment with the qualified taxpayer, was  
7 a person eligible for services under the federal Job Training  
8 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,  
9 who is receiving, or is eligible to receive, subsidized employment,  
10 training, or services funded by the federal Job Training Partnership  
11 Act, or its successor.

12 (II) Immediately preceding the qualified employee's  
13 commencement of employment with the qualified taxpayer, was  
14 a person eligible to be a voluntary or mandatory registrant under  
15 the Greater Avenues for Independence Act of 1985 (GAIN)  
16 provided for pursuant to Article 3.2 (commencing with Section  
17 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and  
18 Institutions Code, or its successor.

19 (III) Immediately preceding the qualified employee's  
20 commencement of employment with the qualified taxpayer, was  
21 an economically disadvantaged individual 14 years of age or older.

22 (IV) Immediately preceding the qualified employee's  
23 commencement of employment with the qualified taxpayer, was  
24 a dislocated worker who meets any of the following:

25 (aa) Has been terminated or laid off or who has received a notice  
26 of termination or layoff from employment, is eligible for or has  
27 exhausted entitlement to unemployment insurance benefits, and  
28 is unlikely to return to his or her previous industry or occupation.

29 (bb) Has been terminated or has received a notice of termination  
30 of employment as a result of any permanent closure or any  
31 substantial layoff at a plant, facility, or enterprise, including an  
32 individual who has not received written notification but whose  
33 employer has made a public announcement of the closure or layoff.

34 (cc) Is long-term unemployed and has limited opportunities for  
35 employment or reemployment in the same or a similar occupation  
36 in the area in which the individual resides, including an individual  
37 55 years of age or older who may have substantial barriers to  
38 employment by reason of age.

39 (dd) Was self-employed (including farmers and ranchers) and  
40 is unemployed as a result of general economic conditions in the

1 community in which he or she resides or because of natural  
2 disasters.

3 (ee) Was a civilian employee of the Department of Defense  
4 employed at a military installation being closed or realigned under  
5 the Defense Base Closure and Realignment Act of 1990.

6 (ff) Was an active member of the Armed Forces or National  
7 Guard as of September 30, 1990, and was either involuntarily  
8 separated or separated pursuant to a special benefits program.

9 (gg) Is a seasonal or migrant worker who experiences chronic  
10 seasonal unemployment and underemployment in the agriculture  
11 industry, aggravated by continual advancements in technology and  
12 mechanization.

13 (hh) Has been terminated or laid off, or has received a notice  
14 of termination or layoff, as a consequence of compliance with the  
15 Clean Air Act.

16 (V) Immediately preceding the qualified employee's  
17 commencement of employment with the qualified taxpayer, was  
18 a disabled individual who is eligible for or enrolled in, or has  
19 completed a state rehabilitation plan or is a service-connected  
20 disabled veteran, veteran of the Vietnam era, or veteran who is  
21 recently separated from military service.

22 (VI) Immediately preceding the qualified employee's  
23 commencement of employment with the qualified taxpayer, was  
24 an ex-offender. An individual shall be treated as convicted if he  
25 or she was placed on probation by a state court without a finding  
26 of guilt.

27 (VII) Immediately preceding the qualified employee's  
28 commencement of employment with the qualified taxpayer, was  
29 a person eligible for or a recipient of any of the following:

30 (aa) Federal Supplemental Security Income benefits.

31 (bb) Aid to Families with Dependent Children.

32 (cc) Food stamps.

33 (dd) State and local general assistance.

34 (VIII) Immediately preceding the qualified employee's  
35 commencement of employment with the qualified taxpayer, was  
36 a member of a federally recognized Indian tribe, band, or other  
37 group of Native American descent.

38 (IX) Immediately preceding the qualified employee's  
39 commencement of employment with the qualified taxpayer, was  
40 a resident of a targeted tax area.

1 (X) Immediately preceding the qualified employee's  
2 commencement of employment with the taxpayer, was a member  
3 of a targeted group, as defined in Section 51(d) of the Internal  
4 Revenue Code, or its successor.

5 (B) Priority for employment shall be provided to an individual  
6 who is enrolled in a qualified program under the federal Job  
7 Training Partnership Act or the Greater Avenues for Independence  
8 Act of 1985 or who is eligible as a member of a targeted group  
9 under the Work Opportunity Tax Credit (Section 51 of the Internal  
10 Revenue Code), or its successor.

11 (5) (A) "Qualified taxpayer" means a person or entity that meets  
12 both of the following:

13 (i) Is engaged in a trade or business within a targeted tax area  
14 designated pursuant to Chapter 12.93 (commencing with Section  
15 7097) of Division 7 of Title 1 of the Government Code.

16 (ii) Is engaged in those lines of business described in Codes  
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
18 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
19 of the Standard Industrial Classification (SIC) Manual published  
20 by the United States Office of Management and Budget, 1987  
21 edition.

22 (B) In the case of any passthrough entity, the determination of  
23 whether a taxpayer is a qualified taxpayer under this section shall  
24 be made at the entity level and any credit under this section or  
25 Section 17053.34 shall be allowed to the passthrough entity and  
26 passed through to the partners or shareholders in accordance with  
27 applicable provisions of this part or Part 10 (commencing with  
28 Section 17001). For purposes of this subparagraph, the term  
29 "passthrough entity" means any partnership or "S" corporation.

30 (6) "Seasonal employment" means employment by a qualified  
31 taxpayer that has regular and predictable substantial reductions in  
32 trade or business operations.

33 (c) If the qualified taxpayer is allowed a credit for qualified  
34 wages pursuant to this section, only one credit shall be allowed to  
35 the taxpayer under this part with respect to those qualified wages.

36 (d) The qualified taxpayer shall do both of the following:

37 (1) Obtain from the Employment Development Department, as  
38 permitted by federal law, the local county or city Job Training  
39 Partnership Act administrative entity, the local county GAIN office  
40 or social services agency, or the local government administering



1 the targeted tax area, a certification that provides that a qualified  
2 employee meets the eligibility requirements specified in clause  
3 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The  
4 Employment Development Department may provide preliminary  
5 screening and referral to a certifying agency. The Department of  
6 Housing and Community Development shall develop regulations  
7 for the issuance of certificates pursuant to subdivision (g) of  
8 Section 7097 of the Government Code, and shall develop forms  
9 for this purpose.

10 (2) Retain a copy of the certification and provide it upon request  
11 to the Franchise Tax Board.

12 (e) (1) For purposes of this section:

13 (A) All employees of all corporations that are members of the  
14 same controlled group of corporations shall be treated as employed  
15 by a single taxpayer.

16 (B) The credit, if any, allowable by this section to each member  
17 shall be determined by reference to its proportionate share of the  
18 expense of the qualified wages giving rise to the credit, and shall  
19 be allocated in that manner.

20 (C) For purposes of this subdivision, “controlled group of  
21 corporations” means “controlled group of corporations” as defined  
22 in Section 1563(a) of the Internal Revenue Code, except that:

23 (i) “More than 50 percent” shall be substituted for “at least 80  
24 percent” each place it appears in Section 1563(a)(1) of the Internal  
25 Revenue Code.

26 (ii) The determination shall be made without regard to Sections  
27 1563 (a)(4) and (e)(3)(C) of the Internal Revenue Code.

28 (2) If an employer acquires the major portion of a trade or  
29 business of another employer (hereinafter in this paragraph referred  
30 to as the “predecessor”) or the major portion of a separate unit of  
31 a trade or business of a predecessor, then, for purposes of applying  
32 this section (other than subdivision (f)) for any calendar year ending  
33 after that acquisition, the employment relationship between a  
34 qualified employee and an employer shall not be treated as  
35 terminated if the employee continues to be employed in that trade  
36 or business.

37 (f) (1) (A) If the employment, other than seasonal employment,  
38 of any qualified employee with respect to whom qualified wages  
39 are taken into account under subdivision (a) is terminated by the  
40 qualified taxpayer at any time during the first 270 days of that

1 employment (whether or not consecutive) or before the close of  
2 the 270th calendar day after the day in which that employee  
3 completes 90 days of employment with the qualified taxpayer, the  
4 tax imposed by this part for the taxable year in which that  
5 employment is terminated shall be increased by an amount equal  
6 to the credit allowed under subdivision (a) for that taxable year  
7 and all prior taxable years attributable to qualified wages paid or  
8 incurred with respect to that employee.

9 (B) If the seasonal employment of any qualified employee, with  
10 respect to whom qualified wages are taken into account under  
11 subdivision (a) is not continued by the qualified taxpayer for a  
12 period of 270 days of employment during the 60-month period  
13 beginning with the day the qualified employee commences seasonal  
14 employment with the qualified taxpayer, the tax imposed by this  
15 part, for the taxable year that includes the 60th month following  
16 the month in which the qualified employee commences seasonal  
17 employment with the qualified taxpayer, shall be increased by an  
18 amount equal to the credit allowed under subdivision (a) for that  
19 taxable year and all prior taxable years attributable to qualified  
20 wages paid or incurred with respect to that qualified employee.

21 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
22 any of the following:

23 (i) A termination of employment of a qualified employee who  
24 voluntarily leaves the employment of the qualified taxpayer.

25 (ii) A termination of employment of a qualified employee who,  
26 before the close of the period referred to in subparagraph (A) of  
27 paragraph (1), becomes disabled and unable to perform the services  
28 of that employment, unless that disability is removed before the  
29 close of that period and the qualified taxpayer fails to offer  
30 reemployment to that employee.

31 (iii) A termination of employment of a qualified employee, if  
32 it is determined that the termination was due to the misconduct (as  
33 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
34 the California Code of Regulations) of that employee.

35 (iv) A termination of employment of a qualified employee due  
36 to a substantial reduction in the trade or business operations of the  
37 taxpayer.

38 (v) A termination of employment of a qualified employee, if  
39 that employee is replaced by other qualified employees so as to

1 create a net increase in both the number of employees and the  
2 hours of employment.

3 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
4 of the following:

5 (i) A failure to continue the seasonal employment of a qualified  
6 employee who voluntarily fails to return to the seasonal  
7 employment of the qualified taxpayer.

8 (ii) A failure to continue the seasonal employment of a qualified  
9 employee who, before the close of the period referred to in  
10 subparagraph (B) of paragraph (1), becomes disabled and unable  
11 to perform the services of that seasonal employment, unless that  
12 disability is removed before the close of that period and the  
13 qualified taxpayer fails to offer seasonal employment to that  
14 qualified employee.

15 (iii) A failure to continue the seasonal employment of a qualified  
16 employee, if it is determined that the failure to continue the  
17 seasonal employment was due to the misconduct (as defined in  
18 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California  
19 Code of Regulations) of that qualified employee.

20 (iv) A failure to continue seasonal employment of a qualified  
21 employee due to a substantial reduction in the regular seasonal  
22 trade or business operations of the qualified taxpayer.

23 (v) A failure to continue the seasonal employment of a qualified  
24 employee, if that qualified employee is replaced by other qualified  
25 employees so as to create a net increase in both the number of  
26 seasonal employees and the hours of seasonal employment.

27 (C) For purposes of paragraph (1), the employment relationship  
28 between the qualified taxpayer and a qualified employee shall not  
29 be treated as terminated by either of the following:

30 (i) By a transaction to which Section 381(a) of the Internal  
31 Revenue Code applies, if the qualified employee continues to be  
32 employed by the acquiring corporation.

33 (ii) By reason of a mere change in the form of conducting the  
34 trade or business of the qualified taxpayer, if the qualified  
35 employee continues to be employed in that trade or business and  
36 the qualified taxpayer retains a substantial interest in that trade or  
37 business.

38 (3) Any increase in tax under paragraph (1) shall not be treated  
39 as tax imposed by this part for purposes of determining the amount  
40 of any credit allowable under this part.

(g) Rules similar to the rules provided in Sections 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(h) For purposes of this section, “targeted tax area” means an area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(i) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23633, including any credit carryover from prior years, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the targeted tax area during

1 the taxable year, and the denominator of which is the average value  
2 of all the taxpayer's real and tangible personal property owned or  
3 rented and used in this state during the taxable year.

4 (B) The payroll factor is a fraction, the numerator of which is  
5 the total amount paid by the taxpayer in the targeted tax area during  
6 the taxable year for compensation, and the denominator of which  
7 is the total compensation paid by the taxpayer in this state during  
8 the taxable year.

9 (4) The portion of any credit remaining, if any, after application  
10 of this subdivision, shall be carried over to succeeding taxable  
11 years, as if it were an amount exceeding the "tax" for the taxable  
12 year, as provided in subdivision (h).

13 (5) In the event that a credit carryover is allowable under  
14 subdivision (h) for any taxable year after the targeted tax area  
15 designation has expired or been revoked, the targeted tax area shall  
16 be deemed to remain in existence for purposes of computing the  
17 limitation specified in this subdivision.

18 (k) (1) The credit authorized by this section shall not be allowed  
19 on or after January 1, 2008.

20 (2) On or after January 1, 2008, taxpayers that would otherwise  
21 be eligible to claim a credit authorized by this section may claim  
22 a credit for these expenses under Section 23622.9.

23 (3) Notwithstanding this subdivision, the provisions of  
24 subdivision (f) of Section 23036 shall apply with respect to any  
25 remaining carryover of the credit previously authorized by this  
26 section.

27 SEC. 10. Section 23646 of the Revenue and Taxation Code is  
28 amended to read:

29 23646. (a) For each taxable year beginning on or after January  
30 1, 1995, there shall be allowed as a credit against the "tax" (as  
31 defined in Section 23036) to a qualified taxpayer for hiring a  
32 qualified disadvantaged individual or a qualified displaced  
33 employee during the taxable year for employment in the LAMBRA.  
34 The credit shall be equal to the sum of each of the following:

35 (1) Fifty percent of the qualified wages in the first year of  
36 employment.

37 (2) Forty percent of the qualified wages in the second year of  
38 employment.

39 (3) Thirty percent of the qualified wages in the third year of  
40 employment.

1 (4) Twenty percent of the qualified wages in the fourth year of  
2 employment.

3 (5) Ten percent of the qualified wages in the fifth year of  
4 employment.

5 (b) For purposes of this section:

6 (1) “Qualified wages” means:

7 (A) That portion of wages paid or incurred by the employer  
8 during the taxable year to qualified disadvantaged individuals or  
9 qualified displaced employees that does not exceed 150 percent  
10 of the minimum wage.

11 (B) The total amount of qualified wages which may be taken  
12 into account for purposes of claiming the credit allowed under this  
13 section shall not exceed two million dollars (\$2,000,000) per  
14 taxable year.

15 (C) Wages received during the 60-month period beginning with  
16 the first day the individual commences employment with the  
17 taxpayer. Reemployment in connection with any increase, including  
18 a regularly occurring seasonal increase, in the trade or business  
19 operation of the qualified taxpayer does not constitute  
20 commencement of employment for purposes of this section.

21 (D) Qualified wages do not include any wages paid or incurred  
22 by the qualified taxpayer on or after the LAMBRA expiration date.  
23 However, wages paid or incurred with respect to qualified  
24 disadvantaged individuals or qualified displaced employees who  
25 are employed by the qualified taxpayer within the LAMBRA within  
26 the 60-month period prior to the LAMBRA expiration date shall  
27 continue to qualify for the credit under this section after the  
28 LAMBRA expiration date, in accordance with all provisions of  
29 this section applied as if the LAMBRA designation were still in  
30 existence and binding.

31 (2) “Minimum wage” means the wage established by the  
32 Industrial Welfare Commission as provided for in Chapter 1  
33 (commencing with Section 1171) of Part 4 of Division 2 of the  
34 Labor Code.

35 (3) “LAMBRA” means a local agency military base recovery  
36 area designated in accordance with the provisions of Section 7114  
37 of the Government Code.

38 (4) “Qualified disadvantaged individual” means an individual  
39 who satisfies all of the following requirements:

1 (A) (i) At least 90 percent of whose services for the taxpayer  
2 during the taxable year are directly related to the conduct of the  
3 taxpayer's trade or business located in a LAMBRA.

4 (ii) Who performs at least 50 percent of his or her services for  
5 the taxpayer during the taxable year in the LAMBRA.

6 (B) Who is hired by the employer after the designation of the  
7 area as a LAMBRA in which the individual's services were  
8 primarily performed.

9 (C) Who is any of the following immediately preceding the  
10 individual's commencement of employment with the taxpayer:

11 (i) An individual who has been determined eligible for services  
12 under the federal Job Training Partnership Act (29 U.S.C. Sec.  
13 1501 et seq.), or its successor.

14 (ii) Any voluntary or mandatory registrant under the Greater  
15 Avenues for Independence Act of 1985 provided for pursuant to  
16 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part  
17 3 of Division 9 of the Welfare and Institutions Code.

18 (iii) An economically disadvantaged individual age 16 years or  
19 older.

20 (iv) A dislocated worker who meets any of the following  
21 conditions:

22 (I) Has been terminated or laid off or who has received a notice  
23 of termination or layoff from employment, is eligible for or has  
24 exhausted entitlement to unemployment insurance benefits, and  
25 is unlikely to return to his or her previous industry or occupation.

26 (II) Has been terminated or has received a notice of termination  
27 of employment as a result of any permanent closure or any  
28 substantial layoff at a plant, facility, or enterprise, including an  
29 individual who has not received written notification but whose  
30 employer has made a public announcement of the closure or layoff.

31 (III) Is long-term unemployed and has limited opportunities for  
32 employment or reemployment in the same or a similar occupation  
33 in the area in which the individual resides, including an individual  
34 55 years of age or older who may have substantial barriers to  
35 employment by reason of age.

36 (IV) Was self-employed (including farmers and ranchers) and  
37 is unemployed as a result of general economic conditions in the  
38 community in which he or she resides or because of natural  
39 disasters.

1 (V) Was a civilian employee of the Department of Defense  
2 employed at a military installation being closed or realigned under  
3 the Defense Base Closure and Realignment Act of 1990.

4 (VI) Was an active member of the Armed Forces or National  
5 Guard as of September 30, 1990, and was either involuntarily  
6 separated or separated pursuant to a special benefits program.

7 (VII) Experiences chronic seasonal unemployment and  
8 underemployment in the agriculture industry, aggravated by  
9 continual advancements in technology and mechanization.

10 (VIII) Has been terminated or laid off or has received a notice  
11 of termination or layoff as a consequence of compliance with the  
12 Clean Air Act.

13 (v) An individual who is enrolled in or has completed a state  
14 rehabilitation plan or is a service-connected disabled veteran,  
15 veteran of the Vietnam era, or veteran who is recently separated  
16 from military service.

17 (vi) An ex-offender. An individual shall be treated as convicted  
18 if he or she was placed on probation by a state court without a  
19 finding of guilty.

20 (vii) A recipient of:

21 (I) Federal Supplemental Security Income benefits.

22 (II) Aid to Families with Dependent Children.

23 (III) Food stamps.

24 (IV) State and local general assistance.

25 (viii) Is a member of a federally recognized Indian tribe, band,  
26 or other group of Native American descent.

27 (5) "Qualified taxpayer" means a corporation that conducts a  
28 trade or business within a LAMBRA and, for the first two taxable  
29 years, has a net increase in jobs (defined as 2,000 paid hours per  
30 employee per year) of one or more employees as determined below  
31 in the LAMBRA.

32 (A) The net increase in the number of jobs shall be determined  
33 by subtracting the total number of full-time employees (defined  
34 as 2,000 paid hours per employee per year) the taxpayer employed  
35 in this state in the taxable year prior to commencing business  
36 operations in the LAMBRA from the total number of full-time  
37 employees the taxpayer employed in this state during the second  
38 taxable year after commencing business operations in the  
39 LAMBRA. For taxpayers who commence doing business in this  
40 state with their LAMBRA business operation, the number of



1 employees for the taxable year prior to commencing business  
2 operations in the LAMBRA shall be zero. If the taxpayer has a net  
3 increase in jobs in the state, the credit shall be allowed only if one  
4 or more full-time employees is employed within the LAMBRA.

5 (B) The total number of employees employed in the LAMBRA  
6 shall equal the sum of both of the following:

7 (i) The total number of hours worked in the LAMBRA for the  
8 taxpayer by employees (not to exceed 2,000 hours per employee)  
9 who are paid an hourly wage divided by 2,000.

10 (ii) The total number of months worked in the LAMBRA for  
11 the taxpayer by employees who are salaried employees divided  
12 by 12.

13 (C) In the case of a qualified taxpayer that first commences  
14 doing business in the LAMBRA during the taxable year, for  
15 purposes of clauses (i) and (ii), respectively, of subparagraph (B)  
16 the divisors “2,000” and “12” shall be multiplied by a fraction, the  
17 numerator of which is the number of months of the taxable year  
18 that the taxpayer was doing business in the LAMBRA and the  
19 denominator of which is 12.

20 (6) “Qualified displaced employee” means an individual who  
21 satisfies all of the following requirements:

22 (A) Any civilian or military employee of a base or former base  
23 that has been displaced as a result of a federal base closure act.

24 (B) (i) At least 90 percent of whose services for the taxpayer  
25 during the taxable year are directly related to the conduct of the  
26 taxpayer’s trade or business located in a LAMBRA.

27 (ii) Who performs at least 50 percent of his or her services for  
28 the taxpayer during the taxable year in a LAMBRA.

29 (C) Who is hired by the employer after the designation of the  
30 area in which services were performed as a LAMBRA.

31 (7) “Seasonal employment” means employment by a qualified  
32 taxpayer that has regular and predictable substantial reductions in  
33 trade or business operations.

34 (8) “LAMBRA expiration date” means the date the LAMBRA  
35 designation expires, is no longer binding, or becomes inoperative.

36 (c) For qualified disadvantaged individuals or qualified displaced  
37 employees hired on or after January 1, 2001, the taxpayer shall do  
38 both of the following:

39 (1) Obtain from the Employment Development Department, as  
40 permitted by federal law, the administrative entity of the local

1 county or city for the federal Job Training Partnership Act, or its  
2 successor, the local county GAIN office or social services agency,  
3 or the local government administering the LAMBRA, a  
4 certification that provides that a qualified disadvantaged individual  
5 or qualified displaced employee meets the eligibility requirements  
6 specified in subparagraph (C) of paragraph (4) of subdivision (b)  
7 or subparagraph (A) of paragraph (6) of subdivision (b). The  
8 Employment Development Department may provide preliminary  
9 screening and referral to a certifying agency. The Department of  
10 Housing and Community Development shall develop regulations  
11 governing the issuance of certificates pursuant to Section 7114.2  
12 of the Government Code and shall develop forms for this purpose.

13 (2) Retain a copy of the certification and provide it upon request  
14 to the Franchise Tax Board.

15 (d) (1) For purposes of this section, both of the following apply:

16 (A) All employees of all corporations that are members of the  
17 same controlled group of corporations shall be treated as employed  
18 by a single employer.

19 (B) The credit (if any) allowable by this section to each member  
20 shall be determined by reference to its proportionate share of the  
21 qualified wages giving rise to the credit.

22 (2) For purposes of this subdivision, “controlled group of  
23 corporations” has the meaning given to that term by Section  
24 1563(a) of the Internal Revenue Code, except that both of the  
25 following apply:

26 (A) “More than 50 percent” shall be substituted for “at least 80  
27 percent” each place it appears in Section 1563(a)(1) of the Internal  
28 Revenue Code.

29 (B) The determination shall be made without regard to Sections  
30 1563(a)(4) and (e)(3)(C) of the Internal Revenue Code.

31 (3) If an employer acquires the major portion of a trade or  
32 business of another employer (hereinafter in this paragraph referred  
33 to as the “predecessor”) or the major portion of a separate unit of  
34 a trade or business of a predecessor, then, for purposes of applying  
35 this section (other than subdivision (e)) for any calendar year  
36 ending after that acquisition, the employment relationship between  
37 an employee and an employer shall not be treated as terminated if  
38 the employee continues to be employed in that trade or business.

39 (e) (1) (A) If the employment of any employee, other than  
40 seasonal employment, with respect to whom qualified wages are

1 taken into account under subdivision (a) is terminated by the  
2 taxpayer at any time during the first 270 days of that employment  
3 (whether or not consecutive) or before the close of the 270th  
4 calendar day after the day in which that employee completes 90  
5 days of employment with the taxpayer, the tax imposed by this  
6 part for the taxable year in which that employment is terminated  
7 shall be increased by an amount equal to the credit allowed under  
8 subdivision (a) for that taxable year and all prior income years  
9 attributable to qualified wages paid or incurred with respect to that  
10 employee.

11 (B) If the seasonal employment of any qualified disadvantaged  
12 individual, with respect to whom qualified wages are taken into  
13 account under subdivision (a) is not continued by the qualified  
14 taxpayer for a period of 270 days of employment during the  
15 60-month period beginning with the day the qualified  
16 disadvantaged individual commences seasonal employment with  
17 the qualified taxpayer, the tax imposed by this part, for the taxable  
18 year that includes the 60th month following the month in which  
19 the qualified disadvantaged individual commences seasonal  
20 employment with the qualified taxpayer, shall be increased by an  
21 amount equal to the credit allowed under subdivision (a) for that  
22 taxable year and all prior taxable years attributable to qualified  
23 wages paid or incurred with respect to that qualified disadvantaged  
24 individual.

25 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
26 any of the following:

27 (i) A termination of employment of an employee who voluntarily  
28 leaves the employment of the taxpayer.

29 (ii) A termination of employment of an individual who, before  
30 the close of the period referred to in paragraph (1), becomes  
31 disabled to perform the services of that employment, unless that  
32 disability is removed before the close of that period and the  
33 taxpayer fails to offer reemployment to that individual.

34 (iii) A termination of employment of an individual, if it is  
35 determined that the termination was due to the misconduct (as  
36 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
37 the California Code of Regulations) of that individual.

38 (iv) A termination of employment of an individual due to a  
39 substantial reduction in the trade or business operations of the  
40 taxpayer.

1 (v) A termination of employment of an individual, if that  
2 individual is replaced by other qualified employees so as to create  
3 a net increase in both the number of employees and the hours of  
4 employment.

5 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
6 of the following:

7 (i) A failure to continue the seasonal employment of a qualified  
8 disadvantaged individual who voluntarily fails to return to the  
9 seasonal employment of the qualified taxpayer.

10 (ii) A failure to continue the seasonal employment of a qualified  
11 disadvantaged individual who, before the close of the period  
12 referred to in subparagraph (B) of paragraph (1), becomes disabled  
13 and unable to perform the services of that seasonal employment,  
14 unless that disability is removed before the close of that period  
15 and the qualified taxpayer fails to offer seasonal employment to  
16 that qualified disadvantaged individual.

17 (iii) A failure to continue the seasonal employment of a qualified  
18 disadvantaged individual, if it is determined that the failure to  
19 continue the seasonal employment was due to the misconduct (as  
20 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
21 the California Code of Regulations) of that individual.

22 (iv) A failure to continue seasonal employment of a qualified  
23 disadvantaged individual due to a substantial reduction in the  
24 regular seasonal trade or business operations of the qualified  
25 taxpayer.

26 (v) A failure to continue the seasonal employment of a qualified  
27 disadvantaged individual, if that individual is replaced by other  
28 qualified disadvantaged individuals so as to create a net increase  
29 in both the number of seasonal employees and the hours of seasonal  
30 employment.

31 (C) For purposes of paragraph (1), the employment relationship  
32 between the taxpayer and an employee shall not be treated as  
33 terminated by either of the following:

34 (i) A transaction to which Section 381(a) of the Internal Revenue  
35 Code applies, if the employee continues to be employed by the  
36 acquiring corporation.

37 (ii) A mere change in the form of conducting the trade or  
38 business of the taxpayer, if the employee continues to be employed  
39 in that trade or business and the taxpayer retains a substantial  
40 interest in that trade or business.

1 (3) Any increase in tax under paragraph (1) shall not be treated  
2 as tax imposed by this part for purposes of determining the amount  
3 of any credit allowable under this part.

4 (4) At the close of the second taxable year, if the taxpayer has  
5 not increased the number of its employees as determined by  
6 paragraph (5) of subdivision (b), then the amount of the credit  
7 previously claimed shall be added to the taxpayer's tax for the  
8 taxpayer's second taxable year.

9 (f) In the case of an organization to which Section 593 of the  
10 Internal Revenue Code applies, and a regulated investment  
11 company or a real estate investment trust subject to taxation under  
12 this part, rules similar to the rules provided in Section 46(e) and  
13 Section 46(h) of the Internal Revenue Code shall apply.

14 (g) The credit shall be reduced by the credit allowed under  
15 Section 23621. The credit shall also be reduced by the federal  
16 credit allowed under Section 51 of the Internal Revenue Code.

17 In addition, any deduction otherwise allowed under this part for  
18 the wages or salaries paid or incurred by the taxpayer upon which  
19 the credit is based shall be reduced by the amount of the credit,  
20 prior to any reduction required by subdivision (h) or (i).

21 (h) In the case where the credit otherwise allowed under this  
22 section exceeds the "tax" for the taxable year, that portion of the  
23 credit that exceeds the "tax" may be carried over and added to the  
24 credit, if any, in succeeding years, until the credit is exhausted.  
25 The credit shall be applied first to the earliest taxable years  
26 possible.

27 (i) (1) The amount of credit otherwise allowed under this section  
28 and Section 23645, including any prior year carryovers, that may  
29 reduce the "tax" for the taxable year shall not exceed the amount  
30 of tax that would be imposed on the taxpayer's business income  
31 attributed to a LAMBRA determined as if that attributed income  
32 represented all of the income of the taxpayer subject to tax under  
33 this part.

34 (2) Attributable income shall be that portion of the taxpayer's  
35 California source business income that is apportioned to the  
36 LAMBRA. For that purpose, the taxpayer's business income that  
37 is attributable to sources in this state first shall be determined in  
38 accordance with Chapter 17 (commencing with Section 25101).  
39 That business income shall be further apportioned to the LAMBRA  
40 in accordance with Article 2 (commencing with Section 25120)

1 of Chapter 17, modified for purposes of this section in accordance  
2 with paragraph (3).

3 (3) Income shall be apportioned to a LAMBRA by multiplying  
4 the total California business income of the taxpayer by a fraction,  
5 the numerator of which is the property factor plus the payroll factor,  
6 and the denominator of which is two. For purposes of this  
7 paragraph:

8 (A) The property factor is a fraction, the numerator of which is  
9 the average value of the taxpayer's real and tangible personal  
10 property owned or rented and used in the LAMBRA during the  
11 taxable year, and the denominator of which is the average value  
12 of all the taxpayer's real and tangible personal property owned or  
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is  
15 the total amount paid by the taxpayer in the LAMBRA during the  
16 taxable year for compensation, and the denominator of which is  
17 the total compensation paid by the taxpayer in this state during the  
18 taxable year.

19 (4) The portion of any credit remaining, if any, after application  
20 of this subdivision, shall be carried over to succeeding taxable  
21 years, as if it were an amount exceeding the "tax" for the taxable  
22 year, as provided in subdivision (h).

23 (j) If the taxpayer is allowed a credit pursuant to this section for  
24 qualified wages paid or incurred, only one credit shall be allowed  
25 to the taxpayer under this part with respect to any wage consisting  
26 in whole or in part of those qualified wages.

27 (k) (1) The credit authorized by this section shall not be allowed  
28 on or after January 1, 2008.

29 (2) On or after January 1, 2008, taxpayers that would otherwise  
30 be eligible to claim a credit authorized by this section may claim  
31 a credit for these expenses under Section 23622.9.

32 (3) Notwithstanding this subdivision, the provisions of  
33 subdivision (f) of Section 23036 shall apply with respect to any  
34 remaining carryover of the credit previously authorized by this  
35 section.

36 SEC. 11. It is the intent of the Legislature that no inference be  
37 drawn in connection with any matter governed by Sections  
38 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, 23634,  
39 and 23646 of the Revenue and Taxation Code, from the period to  
40 which the amendments made to those sections by this act apply or

1 in connection with any matter governed by Sections 17053.76 and  
2 236229 of the Revenue and Taxation Code, as added by this act,  
3 for any taxable year beginning before January 1, 2008.

4 SEC. 12. This act provides for a tax levy within the meaning  
5 of Article IV of the Constitution and shall go into immediate effect.

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